

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF YUMA

IN THE MATTER OF

THE ADOPTION OF AMENDED )  
"RULES AND GUIDELINES OF THE JUDICIAL ) Administrative Order  
MERIT SYSTEM FOR CLASSIFIED AND ) No. 02 - 06  
UNCLASSIFIED EMPLOYEES OF THE SUPERIOR )  
COURT SYSTEM IN YUMA COUNTY" )  
\_\_\_\_\_ )

A Judicial Merit System entitled "Judicial Merit System" was adopted by the Superior Court of the State of Arizona in and for the County of Yuma (the "Yuma County Superior Court") was adopted by Yuma County Superior Court Administrative Order 89-7, effective July 1, 1989. The office of the Clerk of the Superior Court and all of its personnel, with the concurrence of the Clerk, were included and placed within the Judicial Merit System by Administrative Order 90-13, effective June 14, 1990.

Amendments to the "Rules and Guidelines of the Judicial Merit System for Classified and Unclassified Employees of the Superior Court System in Yuma County" (the "Judicial Merit Rules") were adopted by Yuma County Superior Court Administrative Orders 92-2, 92-12, 94-5, and 94-17. By Administrative Order 92-3, it was also ordered that any policy adopted by any court department which was in conflict with the Rules and Guidelines of the Judicial Merit System adopted May 14, 1992, were superseded by such Rules and Guidelines of the Judicial Merit System.

Section 3.01, Rule 3, General Provisions, of the existing Judicial Merit Rules provides that amendments to the Judicial Merit Rules may be made by resolution of a majority of the judges in the Superior Court in Yuma County. The judges of the Yuma County Superior Court, with the concurrence of the Clerk of the Superior Court, have, by Resolution 2002 - 01, unanimously resolved that the attached document entitled "Rules and Guidelines of the Judicial Merit System of the Superior Court in Yuma County" be adopted and promulgated as an amendment to the existing Judicial Merit Rules.

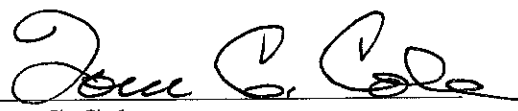
Pursuant to Arizona Supreme Court Administrative Order No. 93-30, as amended, adopting "Administrative Rule V-A," and the administrative authority of presiding judges in Superior Court,

IT IS HEREBY ORDERED that, effective March 1, 2002, the "Rules and Guidelines of

the Judicial Merit System for Classified and Unclassified Employees of the Superior Court System in Yuma County," a copy of which, in its amended form, is attached to and by this reference made a part of this Administrative Order, be and they are hereby adopted as an amendment to the existing Rules and Guidelines of the Judicial Merit System for Classified and Unclassified Employees of the Superior Court System in Yuma County.

IT IS FURTHER ORDERED that the attached Rules and Guidelines of the Judicial Merit System for Classified and Unclassified Employees of the Superior Court System in Yuma County, as hereby adopted, shall supersede and take the place of any rules, policies and guidelines previously existing which are in conflict with the same.

DATED this 8<sup>th</sup> day of February, 2002

  
Tom C. Cole  
Presiding Judge of Superior Court

Copies to:

Hon. Thomas A. Thode  
Hon. Kirby Kongable  
Hon. John N. Nelson  
Hon. Andrew W. Gould  
Hon. John P. Plante  
Hon. Denise Gaumont  
Beverly Frame, Clerk of the Superior Court  
Martin J. Krizay, Chief Adult Probation Officer  
Tim Hardy, Director of Juvenile Court  
Margaret Guidero, Court Administrator  
Robert McLendon, Chair, Yuma County Board of Supervisors  
Wally Hill, County Administrator

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF YUMA

IN THE MATTER OF )

RESOLUTION

AMENDMENT OF JUDICIAL MERIT )  
SYSTEM RULES OF THE SUPERIOR )  
COURT IN YUMA COUNTY )

2002 - 01

WHEREAS the employees of the Superior Court in Yuma County, and the employees of court departments, identified as the Adult Probation Department, Clerk of the Court, Court Administration and Juvenile Court, ("court employees") are subject to the "Rules and Guidelines of the Judicial Merit System For Classified and Unclassified Employees of the Superior Court System in Yuma County" (the "Judicial Merit Rules") promulgated May 14, 1992;

WHEREAS pursuant to section 3.01 of Rule 3, General Provisions, of the Judicial Merit Rules, amendments to the Judicial Merit Rules may be made from time to time by resolution of a majority of the judges of the Superior Court in Yuma County;

NOW, THEREFORE, the undersigned judges of the Superior Court in Yuma County, with the concurrence of the Clerk of the Superior Court in Yuma County, hereby RESOLVE that this court adopt, by administrative order to be entered by the presiding judge of the Superior Court in Yuma County, the attached "Rules and Guidelines of the Judicial Merit System For Classified and Unclassified Employees of the Superior Court System in Yuma County," to be effective March 1, 2002.

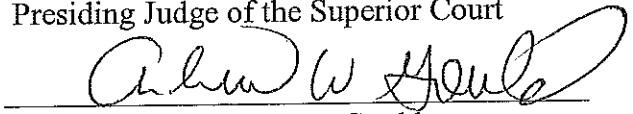
DATED this 5<sup>th</sup> day of February, 2002



Hon. Tom C. Cole

Presiding Judge of the Superior Court

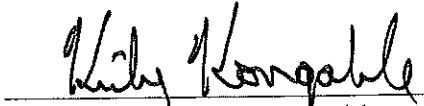
DATED this 5<sup>th</sup> day of February, 2002



Hon. Andrew W. Gould

Associate Presiding Judge of the Superior Court

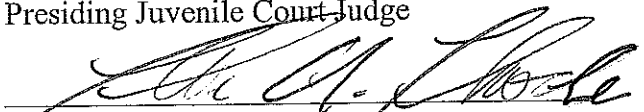
DATED this 6 day of February, 2002



Hon. Kirby Kongable

Presiding Juvenile Court Judge

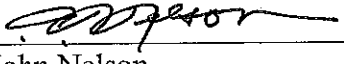
DATED this 5 day of February, 2002



Hon. Thomas Thode


Judge of the Superior Court

DATED this 6<sup>th</sup> day of February, 2002

  
\_\_\_\_\_  
Hon. John Nelson  
Judge of the Superior Court

Concurrence of Clerk of Superior Court:

DATED this 6<sup>th</sup> day of February, 2002

  
\_\_\_\_\_  
Beverly A. Frame  
Clerk of Superior Court

**INDEX OF THE  
RULES OF THE JUDICIAL MERIT SYSTEM OF  
THE SUPERIOR COURT IN YUMA COUNTY**

	Page
<b>RULE 1      PURPOSE.....</b>	1
<b>RULE 2      DEFINITIONS</b>	
2.01 - 2.09 .....	1, 2
2.10 - 2.23 .....	2, 3
2.24 - 2.35 .....	3
2.36 - 2.48 .....	4
2.49 - 2.54 .....	5
<b>RULE 3      GENERAL PROVISIONS</b>	
3.01 Rules.....	6
3.02 Appointing Authority.....	6
3.03 Applicability of the Rules.....	7
3.04 Certification of Payrolls.....	7
3.05 Performance Evaluation Appraisal.....	7
3.06 Disability Accommodation.....	7, 8
3.07 Membership in Organizations.....	8
3.08 Volunteer Activity.....	8
3.09 Outside Employment.....	9
3.10 Anti-Discrimination in Employment.....	9
3.11 Reprisals.....	9
3.12 Records and Reports.....	9, 10
3.13 Service of Notice.....	10
3.14 Severability.....	10
3.15 Conflict with Federal & State Requirements..	10
3.16 Hiring of Relatives.....	10
3.17 Fingerprinting/Criminal Background Check..	11
3.18 Drug Free Workplace.....	11, 12
3.18 Grievance Procedure.....	12, 13
<u>See text at Appendix A</u>	
<b>RULE 4      ANNOUNCEMENTS AND EXAMINATIONS</b>	
4.01 Job Announcements.....	14
4.02 Applications.....	14, 15, 16
4.03 Nature of Examination.....	16
4.04 Evaluating Results of Rating Examinations..	17
4.05 Reference Checks and Investigations.....	17

4.06	Notice of Examination Results.....	17
4.07	Administrative Review.....	17
4.08	Examination Records.....	17

## **RULE 5      REGISTERS**

5.01	Responsibility for Maintenance of Registers.	18
5.02	Open Competitive Registers.....	18
5.03	Use of Related Registers.....	18
5.04	Duration of Registers.....	18
5.05	Removal of Names from the Register.....	19
5.06	Notification of Removal.....	19
5.07	Reduction-in-Force Register.....	20
5.08	Employee Registers.....	20
5.09	Use of Registers.....	20

## **RULE 6      CERTIFICATION AND SELECTION OF CANDIDATES**

6.01	Request for Certification of Candidates....	21
6.02	Availability of Candidates.....	22
6.03	Certification of Candidates.....	21
6.04	Selection of Candidates.....	21, 22

## **RULE 7      TYPES OF APPOINTMENT**

7.01	Appointment to a Vacancy in a Classified Position in Court Service.....	23
7.02	Reduction in Force Return.....	23
7.03	Reinstatement to Court Service.....	23
7.04	Probationary Appointment.....	23
7.05	Other Appointments.....	24

## **RULE 8      PROBATIONARY PERIOD**

8.01	Nature, Duration and Purpose.....	25
8.02	Probation for New, Transferred or Demoted Employees.....	25
8.03	Promotional Probation.....	25
8.04	Other Applications of Probation.....	23

## **RULE 9      PROMOTIONS, TRANSFERS, DEMOTIONS**

9.01	Purpose.....	26
9.02	Promotions.....	26
9.03	Transfer.....	26
9.04	Reassignment.....	26
9.05	Demotion.....	26, 27

<b>RULE 10</b>	<b>SEPARATION AND DISCIPLINARY ACTIONS</b>	
10.01	General Provisions.....	28
10.02	Reduction In Force (RIF).....	28
10.03	Disciplinary Procedure.....	29, 30
10.04	Resignations.....	30
10.05	Retirement.....	31
 <b>RULE 11</b>	 <b>APPEALS</b>	
11.01	Matters That May Be Appealed.....	32
11.02	Matters Which May Not Be Appealed...	32
11.03	Appeal Procedure.....	32
11.04	Answer.....	33
11.05	Time of Hearing.....	33
11.06	Notice of Hearing.....	33
11.07	Nature of Hearing.....	33
11.08	Exclusion of Witnesses.....	33
11.09	Witness Fees.....	34
11.10	Depositions.....	34
11.11	Proposed Finding of Fact.....	34
11.12	Findings of Fact, Conclusion of Law and Order.....	34
11.13	Withdrawal of an Appeal.....	34
11.14	Decision by Presiding Judge.....	35
11.15	Compliance of Appointing Authority....	35
11.16	Settlements.....	35
 <b>RULE 12</b>	 <b>CLASSIFICATION PLAN</b>	
12.01	Nature.....	36
12.02	Interpretation of Class Specifications....	36, 37
 <b>RULE 13</b>	 <b>PAY PLAN</b>	
13.01	Purpose.....	38
13.02	Resolution of Compensation Issues.....	38
	<u>See text at Appendix B</u>	
 <b>RULE 14</b>	 <b>LEAVE PLAN</b>	
14.01	Purpose.....	39
14.02	Authority.....	39
14.03	Basic Work Week and Hours of Work...	39
14.04	Holidays.....	39
14.05	Coverage and Administration of Leave..	40, 41
14.06	Annual Leave for Court and Court Department Employees.....	41, 42

14.07	Sick Leave for Classified and Unclassified Employees.....	42, 43, 44
14.08	Annual Leave for Judicial Staff.....	44
14.09	Special Leaves of Absence with Pay.....	45, 46
14.10	Leaves of Absence Without Pay.....	46
14.11	Military Leave for Active Service.....	47
14.12	Absence Without Leave.....	48
14.13	Industrial Leave - Workers' Compensation Benefits.....	48
14.14	Reinstatement of Sick Leave.....	48
14.15	Overtime Pay and Compensatory Leave.	48, 49

**RULE 15 ARIZONA CODE OF JUDICIAL CONDUCT**

15.01	Purpose.....	50
	<u>See text at Appendix C</u>	

**RULE 16 SEXUAL HARASSMENT**

16.01	Policy.....	51
16.02	Procedure.....	51, 52

**RULE 17 FAMILY AND MEDICAL LEAVE ACT OF 1993 (FMLA)**

17.01	Purpose.....	53
17.02	Application.....	53
17.03	Eligible Employees.....	53
17.04	Reasons for Taking Leave.....	53
17.05	Employee Requirements.....	53, 54
17.06	Job Benefits and Protection.....	54
17.07	Unlawful Acts by Employers.....	54
17.08	Enforcement.....	54

**APPENDIX A EMPLOYEE GRIEVANCE POLICY AND PROCEDURE**

I	Purpose.....	55
II	Policy.....	55
III	Exclusions.....	55
IV	Confidentiality.....	56
V	Procedure.....	56, 57
	Form.....	58

**APPENDIX B JUDICIAL COMPENSATION POLICY AND PROCEDURE**

I	Purpose.....	59
II	Authority.....	59



III	Pay Plan.....	59
IV	Entrance Salary.....	59
V	Temporary or On-Call Status Employee Pay Assignment.....	59, 60
VI	Re-entry to Court Service.....	60
VII	Salary Adjustments.....	60, 61, 62
VIII	Separation Pay.....	63

**APPENDIX C            ARIZONA CODE OF JUDICIAL CONDUCT  
FOR JUDICIAL EMPLOYEES**

Table of Contents.....	64
Preamble.....	65
Definitions.....	66
CANON 1.....	67
CANON 2.....	68, 69
CANON 3.....	70, 71
CANON 4.....	72, 73
CANON 5.....	74, 75

**INDEX OF THE  
RULES OF THE JUDICIAL MERIT SYSTEM OF  
THE SUPERIOR COURT IN YUMA COUNTY**

	Page
<b>RULE 1      PURPOSE.....</b>	<b>1</b>
<b>RULE 2      DEFINITIONS</b>	
2.01 - 2.09 .....	1, 2
2.10 - 2.23 .....	2, 3
2.24 - 2.35 .....	3
2.36 - 2.48 .....	4
2.49 - 2.54 .....	5
<b>RULE 3      GENERAL PROVISIONS</b>	
3.01 Rules.....	6
3.02 Appointing Authority.....	6
3.03 Applicability of the Rules.....	7
3.04 Certification of Payrolls.....	7
3.05 Performance Evaluation Appraisal.....	7
3.06 Disability Accommodation.....	7, 8
3.07 Membership in Organizations.....	8
3.08 Volunteer Activity.....	8
3.09 Outside Employment.....	9
3.10 Anti-Discrimination in Employment.....	9
3.11 Reprisals.....	9
3.12 Records and Reports.....	9, 10
3.13 Service of Notice.....	10
3.14 Severability.....	10
3.15 Conflict with Federal & State Requirements..	10
3.16 Hiring of Relatives.....	10
3.17 Fingerprinting/Criminal Background Check.	11
3.18 Drug Free Workplace.....	11, 12
3.18 Grievance Procedure.....	12, 13
<u>See text at Appendix A</u>	
<b>RULE 4      ANNOUNCEMENTS AND EXAMINATIONS</b>	
4.01 Job Announcements.....	14
4.02 Applications.....	14, 15, 16
4.03 Nature of Examination.....	16
4.04 Evaluating Results of Rating Examinations..	17
4.05 Reference Checks and Investigations.....	17

4.06	Notice of Examination Results.....	17
4.07	Administrative Review.....	17
4.08	Examination Records.....	17

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5.05	Removal of Names from the Register.....	19
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5.08	Employee Registers.....	20
5.09	Use of Registers.....	20

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6.03	Certification of Candidates.....	21
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7.02	Reduction in Force Return.....	23
7.03	Reinstatement to Court Service.....	23
7.04	Probationary Appointment.....	23
7.05	Other Appointments.....	24

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8.02	Probation for New, Transferred or Demoted Employees.....	25
8.03	Promotional Probation.....	25
8.04	Other Applications of Probation.....	23

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9.01	Purpose.....	26
9.02	Promotions.....	26
9.03	Transfer.....	26
9.04	Reassignment.....	26
9.05	Demotion.....	26, 27

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	10.01 General Provisions.....	28
	10.02 Reduction In Force (RIF).....	28
	10.03 Disciplinary Procedure.....	29, 30
	10.04 Resignations.....	30
	10.05 Retirement.....	31
<b>RULE 11</b>	<b>APPEALS</b>	
	11.01 Matters That May Be Appealed.....	32
	11.02 Matters Which May Not Be Appealed...	32
	11.03 Appeal Procedure.....	32
	11.04 Answer.....	33
	11.05 Time of Hearing.....	33
	11.06 Notice of Hearing.....	33
	11.07 Nature of Hearing.....	33
	11.08 Exclusion of Witnesses.....	33
	11.09 Witness Fees.....	34
	11.10 Depositions.....	34
	11.11 Proposed Finding of Fact.....	34
	11.12 Findings of Fact, Conclusion of Law and Order.....	34
	11.13 Withdrawal of an Appeal.....	34
	11.14 Decision by Presiding Judge.....	35
	11.15 Compliance of Appointing Authority....	35
	11.16 Settlements.....	35
<b>RULE 12</b>	<b>CLASSIFICATION PLAN</b>	
	12.01 Nature.....	36
	12.02 Interpretation of Class Specifications....	36, 37
<b>RULE 13</b>	<b>PAY PLAN</b>	
	13.01 Purpose.....	38
	13.02 Resolution of Compensation Issues.....	38
	<u>See text at Appendix B</u>	
<b>RULE 14</b>	<b>LEAVE PLAN</b>	
	14.01 Purpose.....	39
	14.02 Authority.....	39
	14.03 Basic Work Week and Hours of Work...	39
	14.04 Holidays.....	39
	14.05 Coverage and Administration of Leave..	40, 41
	14.06 Annual Leave for Court and Court Department Employees.....	41, 42

14.07	Sick Leave for Classified and Unclassified Employees.....	42, 43, 44
14.08	Annual Leave for Judicial Staff.....	44
14.09	Special Leaves of Absence with Pay.....	45, 46
14.10	Leaves of Absence Without Pay.....	46
14.11	Military Leave for Active Service.....	47
14.12	Absence Without Leave.....	48
14.13	Industrial Leave - Workers' Compensation Benefits.....	48
14.14	Reinstatement of Sick Leave.....	48
14.15	Overtime Pay and Compensatory Leave.	48, 49

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15.01	Purpose.....	50
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16.02	Procedure.....	51, 52

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17.01	Purpose.....	53
17.02	Application.....	53
17.03	Eligible Employees.....	53
17.04	Reasons for Taking Leave.....	53
17.05	Employee Requirements.....	53, 54
17.06	Job Benefits and Protection.....	54
17.07	Unlawful Acts by Employers.....	54
17.08	Enforcement.....	54

**APPENDIX A EMPLOYEE GRIEVANCE POLICY AND PROCEDURE**

I	Purpose.....	55
II	Policy.....	55
III	Exclusions.....	55
IV	Confidentiality.....	56
V	Procedure.....	56, 57
	Form.....	58

**APPENDIX B JUDICIAL COMPENSATION POLICY AND PROCEDURE**

I	Purpose.....	59
II	Authority.....	59

III	Pay Plan.....	59
IV	Entrance Salary.....	59
V	Temporary or On-Call Status Employee Pay Assignment.....	59, 60
VI	Re-entry to Court Service.....	60
VII	Salary Adjustments.....	60, 61, 62
VIII	Separation Pay.....	63

**APPENDIX C                      ARIZONA CODE OF JUDICIAL CONDUCT  
FOR JUDICIAL EMPLOYEES**

Table of Contents.....	64
Preamble.....	65
Definitions.....	66
CANON 1.....	67
CANON 2.....	68, 69
CANON 3.....	70, 71
CANON 4.....	72, 73
CANON 5.....	74, 75

<p style="text-align: center;"><b>RULES OF THE JUDICIAL MERIT SYSTEM OF THE SUPERIOR COURT IN YUMA COUNTY</b></p>
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**RULE 1 - PURPOSE**

The purpose of the Rules of the Judicial Merit System ("Rules") is to implement a uniform and equitable system of personnel administration for covered employees in the Superior Court in Yuma County based upon merit principles. These Rules shall be construed with regard to recruitment, selection, appointment, development, promotion, transfer, layoff, classification, compensation, separation, discipline, appeal hearing and provision for the welfare and rights of the superior court employees shall be performed in a manner to secure and retain well-qualified employees to carry out court programs effectively and efficiently and to provide reasonable stability of employment in the court service.

**RULE 2 - DEFINITIONS**

The following words and phrases have these meanings in these Rules and guidelines:

- 2.01 **Amendment**: A change in the existing text of the rules, including appendices, or references to the Rules, accomplished by means of adding, deleting, or modifying any portion.
- 2.02 **Appeal**: A written request filed with the Presiding Judge by an employee for relief from a suspension, dismissal or reduction in force.
- 2.03 **Applicant**: A person who has filed formal application for employment.
- 2.04 **Appointing Authority**: The officer of the Superior Court under whose appointive authority an employee holds a position within the Judicial Merit System, i.e., Judge, Clerk of Superior Court, Court Administrator, Chief Adult Probation Officer, or Director of Juvenile Court Services. Any actions that can be taken by an Appointing Authority can be taken by a designee.
- 2.05 **Appointment**: The acceptance by a person of the offer of a position within the Judicial Merit System.
- 2.06 **Armed Forces**: The United States Army, Navy, Air Force, Marine Corps, or Coast Guard.
- 2.07 **Board**: The Yuma County Board of Supervisors
- 2.08 **Candidate**: An applicant approved by the Human Resources Department for participation in an examination.
- 2.09 **Certification**: The referral of the names of qualified and eligible candidates by the

Human Resources Department.

- 2.10 **Class**: A position, or group of positions, sufficiently similar in duties and responsibilities so that the same requirements for education, experience, knowledge, ability, training, and other qualifications may be demanded of the occupants within the class so that the same compensation schedule can be applied with equity.
- 2.11 **Class Change**: The change in assignment of an employee, from one class to another class, having the same range of pay.
- 2.12 **Class Specification**: The official description of the type and level of duties and responsibilities of positions assigned to a class and the necessary qualifications which a person must possess for performing those duties.
- 2.13 **Classification Plan**: The orderly arrangement of positions under separate and distinct classes on the basis of current duties and responsibilities.
- 2.14 **Classified Employees**: All positions in the court service except those expressly designated as unclassified.
- 2.15 **Compensation**: The salary, wage, allowances, and all other forms of valuable consideration earned by or paid to an employee, except authorized reimbursement for necessary expenses incurred.
- 2.16 **Compensatory Time**: Time off granted to an employee in lieu of monetary payments for overtime worked.
- 2.17 **County**: Yuma County government.
- 2.18 **Court Department**: A judicial department, unit, or division, under the control of an Appointing Authority and/or the Presiding Judge.
- 2.19 **Days**: calendar days
- 2.20 **Demotion**: A change in the assignment of an employee from a position in one class to a position in another class which results in the employee receiving a lower rate of pay.
- 2.21 **Dismissal/Separation**: The termination of employment.
- 2.22 **Disciplinary Action**: The corrective action taken by an Appointing Authority against an employee, including but not limited to, verbal or written reprimand, suspension, demotion, or dismissal.
- 2.23 **Eligible**: A person who has attained a passing score on the examination, and/or has been screened by the Human Resources Department, and who meets



minimum qualifications for a specific class.

- 2.24 **Employee**: A person who is paid a wage, salary, or stipend from public funds, in accordance with official entries on a court department payroll.
- 2.25 **Examination**: An evaluation process used to measure the qualifications and determine relative capabilities of applicants.
- 2.26 **Exempt Employees**: Employees who are covered by the Fair Labor Standards Act (“FLSA”) but who are exempted by specific provisions of the act. Exempt employees are distinguished from “non-covered” employees including elected officials, legal advisors and other categories discussed in the FLSA handbook, “current developments,” tabs 100-1000, at paragraphs 211 through 260.
- 2.27 **Fair Labor Standards Act**: The Fair Labor Standards Act of 1938 (29 U.S.C. 201-219) as amended.
- 2.28 **Grievance**: A written request filed by an employee for relief from certain alleged unfair acts or conditions within the work environment.
- 2.29 **Immediate Family**: Spouse, brother, sister, parent, stepparent, child, stepchild, grandparent, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law or any member of a household domiciled in the employee’s residence, or a person serving in loco parentis of either an employee or their spouse.
- 2.30 **In Loco Parentis**: In place of a parent.
- 2.31 **Job Announcement**: The official public notice of invitations to file applications to fill positions in a court department.
- 2.32 **Judicial Management Team**: The Judicial Management Team consists of the Presiding Judge, Presiding Juvenile Judge, Associate Presiding Judge, Clerk of the Court, the Chief Adult Probation Officer, Director of Juvenile Court, and Court Administrator.
- 2.33 **Judicial Staff**: Any employees, classified or unclassified whose primary supervisor is a judicial officer, including judges, commissioners and judges pro tempore.
- 2.34 **Military Leave**: The leave of absence status of an employee who leaves a position to serve in the Armed Forces of the United State or of this state in time of national or state emergency or for military training and who has the right pursuant to A.R.S. §§ 26-168, 38-297, 38-298, 38-610, relating to reinstatement after military service to return to the former position or a like position.
- 2.35 **On-Call**: Temporary employment on an as needed basis, as determined by the Appointing Authority.

- 2.36 **Pay Plan**: Policies, procedures and a schedule of numbered salary ranges utilized to administer and assign an appropriate salary range to each class. The pay plan is attached hereto as part of the Judicial Compensation Policy and Procedure, Appendix B.
- 2.37 **Position**: A specific employment, whether occupied or vacant, involving duties requiring the services of one person.
- 2.38 **Presiding Judge**: The Presiding Judge of Superior Court in Yuma County, except when any rule or guideline applies to an employee in the Juvenile Court Department in which case Presiding Judge refers to the Presiding Judge of Juvenile Court.
- 2.39 **Probation**: A specified period of employment following appointment, transfer, promotion, or demotion, which is the final step in the examination process during which time the work performance of an employee is evaluated.
- 2.40 **Probationary Employee**: A person who is serving any probationary period.
- 2.41 **Promotion**: A change in the assignment of an employee from a position in one class to a position in another class which results in the employee receiving a higher rate of pay.
- 2.42 **Reassignment**: A change in the assignment of an employee from one position to another position of the same class under the same Appointing Authority.
- 2.43 **Reclassification**: Changing the classification of an existing position when a material, substantial, and permanent change in the duties or responsibilities of the position occurs.
- 2.44 **Reduction In Force (RIF)**: The separation of an employee for reasons of shortage of funds or work, or by reason of a bona fide abolishment of a position, change in duties of the position, or reorganization within a court department.
- 2.45 **Register**: An official list of eligible candidates for a particular class, compiled by the Human Resources Department, which shall be used by the Appointing Authority for selection to classified positions in court departments.
- 2.46 **Regular Status**: The status an employee achieves when retained in a position of the classified service after successful completion of probation.
- 2.47 **Reinstatement**: The return to a court department of a former employee who resigned in good standing from a classified position in a court department.
- 2.48 **Step Increase**: An incremental procession through the Judicial Compensation Policy and Procedure plan based on meritorious performance and longevity.

- 2.49 **Suspension**: The temporary separation of an employee from a position for disciplinary reasons.
- 2.50 **Temporary Appointment**: Appointment to a position to meet a temporary program need with a specified duration.
- 2.51 **Transfer**: A change in the job assignment of an employee from a one position in a court department to another position in another court department.
- 2.52 **Unclassified employees**: Chief Adult Probation Officer, Chief Deputy Clerk of the Superior Court, Court Administrator, Director of Conciliation Services, Director of the Office of Conflict Administration, Director of Juvenile Court Services, Superior Court Judges Pro Tempore, Superior Court Commissioners (including Juvenile Court), Superior Court Referees, and others designated by the Presiding Judge, including contract service providers and their employees.
- 2.53 **Underfill**: The filling of a vacancy by appointment of a person to a position in a class which is assigned a salary range lower than the salary range of the vacant authorized position.
- 2.54 **Veteran**: any person separated from active duty in the Armed Forces of the United States (Army, Navy, Marine Corps or Coast Guard) under honorable conditions following more than six months of active duty.

## **RULE 3 - GENERAL PROVISIONS**

### **3.01 Rules**

- A. The Judicial Merit System in Yuma County and the provisions of these Rules shall apply to all classified and unclassified positions, provided however that rules governing discipline and grievance procedures do not apply to the following unclassified positions which are "at will" positions. Employees who occupy unclassified positions serve at the pleasure of the presiding judge or the clerk of the court, where applicable.

#### **Unclassified Positions**

1. Judges Pro Tempore
  2. Court Commissioners and Court Referees
  3. Court Administrator
  4. Chief Deputy Clerk of the Superior Court
  5. Chief Adult Probation Officer
  6. Director of Juvenile Court Services
  7. Director of Conciliation Services
  8. People appointed to unclassified Positions which may be created in the future.
  9. Director of the Office of Conflict Administration
  10. Contract service providers and their employees
- B. Amendments to these Rules may be proposed by any Appointing Authority. Proposed amendments shall be submitted in writing to the Court Administrator for consideration and recommendation by the Judicial Management Team.
- C. Amendments to these Rules shall be approved by the Presiding Judge.

### **3.02 Appointing Authority**

Each judge of an established division of the court shall appoint the judicial assistant, bailiff and court reporter assigned to that judge's division. The Presiding Judge shall be the Appointing Authority of all staff assigned to judges pro tempore and commissioners.

The Clerk of the Superior Court shall appoint all Clerk's staff. The Court Administrator shall appoint all staff supervised by the Court Administrator. The Chief Adult Probation Officer shall appoint deputy adult probation officers and support staff. The Director of Juvenile Court Services shall recommend to the Presiding Juvenile Judge appointment of all staff of the Juvenile Court. The Presiding Juvenile Judge shall appoint the Director of Juvenile Court Services. The Presiding Judge shall appoint the Chief Adult Probation Officer, the Court Administrator, and shall approve the appointment of all court personnel not included above, or otherwise provided by law.

### **3.03 Applicability of the Rules**

The Rules shall not apply to the following temporary part-time positions:

- A. Technical experts, consultants, or professionals employed on a fee basis and who are not engaged in the performance of administrative duties for the Appointing Authority; and
- B. Any temporary or on-call positions that the Presiding Judge determines are not subject to the Rules.

### **3.04 Certification of Payrolls**

Each Appointing Authority shall provide certification that all employees in the court departments, for whom claim for payment of salaries or compensation is made, are holding positions as provided by law and these Rules.

### **3.05 Performance Evaluation Appraisal**

- A. The Court Administrator shall, with the concurrence of the Judicial Management Team, develop a performance appraisal system, and all employees in the classified service shall be evaluated in accordance with this system at established intervals not less than annually.
- B. Performance appraisals shall be considered in determining training needs, step increases, order of reductions in force (RIF), transfer, re-employment, and as a means for identifying employees who should be promoted, demoted, or dismissed.

### **3.06 Disability Accommodation**

- A. The court is committed to complying fully with the Americans with Disabilities Act ("ADA") and ensuring equal opportunity in employment for qualified persons with disabilities. The court will follow any state or local law that provides individuals with disabilities greater protection than the ADA. All employment practices and activities will be conducted on a nondiscriminatory basis.
- B. Hiring procedures shall provide persons with disabilities meaningful employment opportunities. Job applications shall be made available in alternative, accessible formats upon request and court departments shall provide assistance in completing the application upon request. Pre-employment inquiries shall only be made regarding an applicant's ability to perform the duties of the position.
- C. Post-offer medical examinations are required only for those positions in which there is a bona fide job-related physical requirement and shall be given to all

persons entering the position only after conditional job offers. Medical records shall be kept separate and confidential.

- D. Reasonable accommodations shall be made available to all disabled employees where their disability affects the performance of job functions. All employment decisions shall be based on the merits of the situation in accordance with defined criteria.
- E. Qualified individuals with disabilities are entitled to equal pay and other forms of compensation as well as in job assignments, classifications, organizational structures, position descriptions, lines of progression, and seniority lists.
- F. The court is also committed to not discriminating against any qualified employees or applicants because they are related to or associated with a person with a disability.
- G. The court is committed to taking all other actions necessary to ensure equal employment opportunity for persons with disabilities in accordance with the ADA and all other applicable federal, state, and local laws.

### **3.07 Membership in Organizations**

- A. Employees in the classified service may join and hold office in any employee organization, labor union, or professional association in which they are eligible for membership; provided however that such employee organization, labor union, or professional association is not organized for any illegal purpose or primarily engaged in activities contrary to law, and that membership in such organization does not create a conflict of interest.
- B. No employee will attempt to prohibit or intimidate any employee in the classified service from belonging to or holding office in any lawful organization.
- C. Membership in such organization will not be considered in any personnel action, including promotion, demotion, suspension, or dismissal.

### **3.08 Volunteer Activity**

- A. Employees are encouraged to engage in volunteer activities, especially activities to improve the legal system; however, employees will evaluate their volunteer activities in the same manner as outside employment to identify any potential conflict with the employee's position with the court.
- B. Employees will declare all volunteer activities and will discuss potential conflicts with their respective Appointing Authority.

### **3.09 Outside Employment**

- A. Employees will not engage in outside employment or other outside activity which is not compatible with the full and proper discharge of the duties and responsibilities of their court employment or which might impair the capacity to perform their court duties and responsibilities in an acceptable manner.
- B. All employees must obtain written approval of any outside employment from their respective Appointing Authority.

### **3.10 Anti-Discrimination In Employment**

- A. Discrimination on the basis of race, color, religion, sex, age, national origin, sexual orientation or disability is prohibited and will not be tolerated. Allegations of discrimination will be promptly investigated and any employee who engages in conduct in violation of this policy is subject to prompt and appropriate disciplinary action, up to and including termination. Anyone who believes that they have been subjected to discrimination has a right to have their complaint investigated promptly without fear of reprisal.
- B. Discrimination includes, but is not limited to:
  - 1. Preferential treatment of one person or group over another similarly situated person or group because of the person's or group's race, color, religion, sex, sexual orientation, age, national origin, or disability;
  - 2. Sexual harassment;
  - 3. Harassment of any individual because of the individual's race, color, religion, sex, sexual orientation, age, national origin, or disability; and
  - 4. Failing or refusing to provide a reasonable accommodation to a qualified person with a disability.

### **3.11 Reprisals**

A court department shall not impede or interfere with the exercise of any employee's right of review or appeal, or any other employee right under these Rules, nor shall any disciplinary or punitive action be taken against an employee in retaliation for the employee exercising their rights.

### **3.12 Records and Reports**

- A. Personnel Action Forms  
Personnel action forms approved by the Presiding Judge will be used by all court

departments to report personnel actions and status changes as required. The Court Administrator will inform the court departments which personnel actions and status changes that must be reported.

**B. Department Personnel Records**

Each court department will maintain personnel records that contain information in a format prescribed by the Judicial Management Team and approved by the Presiding Judge.

**3.13 Service of Notice**

Unless otherwise provided by law or these Rules, whenever any notice, paper or documents is to be given to or served upon any employee by the Presiding Judge, such notice, paper or document may be personally served or it may be served by certified mail to the last known residence or business address of the addressee. Service is complete upon mailing. Unless otherwise provided by law or these Rules, whenever any notice, paper or document is to be given to or served upon any court department or Appointing Authority by the Presiding Judge, such notice, paper or document may be delivered or mailed to the Appointing Authority. Any service under this provision is complete upon mailing.

**3.14 Severability**

If any remaining provision of these Rules is held invalid, the provisions of these Rules, and their application to other persons or circumstances, will not be affected.

**3.15 Conflict with Federal and State Requirements**

Arizona Revised Statutes, federal law and any regulations or standards governing the grant of federal funds or state assistance to a court department will supercede the Rules of the judicial merit system.

**3.16 Hiring of Relatives**

No person will be employed in a position in any reporting line of supervision to a member of his or her immediate family. For the purposes of this rule, a reporting line of supervision includes an immediate supervisor and the supervisors in the second, third or fourth line of supervision, up to and including the Appointing Authority of the court department. In the event an Appointing Authority determines that an immediate family member is placed in a reporting line of supervision, an appropriate course of action will be determined in consultation with the Court Administrator. However, no employee will be denied a promotion on the basis of familial relationship to another employee. Immediate family members of court employees are ineligible for on-call, temporary or



seasonal appointments to court departments in which a family member is in a reporting line of supervision.

### **3.17 Fingerprinting/Criminal Background Check**

- A. All applicants will be informed at the time of application that as a condition of employment, they will be required to undergo a criminal record check. This will include fingerprinting and a criminal history check through ACJIS and NCIC.
- B. If an applicant refuses to allow fingerprinting and a criminal history check, they will not be considered for employment.
- C. If it is determined that a record of criminal conviction be determined which was not disclosed on the employment application or disclosed by the employee, the employee will be terminated by the Appointing Authority unless waived in writing by the Presiding Judge.
- D. Annual criminal history checks will be conducted on all classified and unclassified employees, including volunteers.

### **3.18 Drug Free Workplace**

It is the policy of the court to assure the maintenance of a drug-free and alcohol-free workplace.

#### **A. Pre-employment and Promotion or Change in Classification Testing**

Applicants for positions in any court department, and regular status employees may be required to submit to a urinalysis as a condition of employment in the following instances:

- 1. In order to qualify for employment;
- 2. To be considered for a promotion; and
- 3. Upon change in classification under the Rules.

#### **B. Random Drug and Alcohol Testing**

Employees in certain job classifications may be subject to random drug and alcohol testing during their work period. Random testing will only apply to those employees who:

- 1. Hold a commercial driver's license (CDL) in connection with their court employment.
- 2. Have a safety-sensitive position, as identified by the Appointing Authority.

Examples include:

- a. Detention Officers
- b. Probation Officers
- c. Surveillance Officers
- d. Community Service Officers

C. Reasonable Suspicion Testing

Any employee will be required to submit to a drug screen, blood alcohol test or breath alcohol test (intoxilyzer test) if the Appointing Authority or an employee's supervisor has a reasonable suspicion that the employee is using, selling, impaired by or in possession of alcohol, illegal or controlled substances (non-prescription) in the workplace. "Reasonable suspicion" is a belief based on specific objective facts and reasonable inferences drawn from those facts.

Reasonable suspicion that an employee uses alcohol or illegal drugs may be based upon, but not limited to:

1. Direct observation of drug alcohol use and/or the physical symptoms of being under the influence of drugs of alcohol.
2. A pattern of abnormal conduct or erratic behavior.
3. Arrest or conviction for a drug-related offense, or the identification of an Employee as the focus of a criminal investigation into illegal drug possession, use or trafficking.
4. Information provided by either a reliable and credible source(s) or by admission of the employee.
5. Newly discovered evidence that the employee has tampered with a previous drug test.

Where testing is conducted based on reasonable suspicion, the supervisor will document by describing the circumstances which form the basis that reasonable suspicion exists. The supervisor will forward the documentation to the Appointing Authority to authorize such testing. Such documentation will be retained in a file, separate from the employee's personnel file, and may be destroyed if appropriate.

**3.19 Grievance Procedure**

The Court Administrator, with approval of the Presiding Judges, will establish a grievance procedure through which classified employees may obtain consideration of grievances or problems over which the Appointing Authority has complete or partial jurisdiction and for which redress is not provided elsewhere in these Rules. The purpose of the grievance procedure is to provide employees with a written and systematic means of obtaining further consideration of grievances after every reasonable effort has been made to resolve them through internal discussions initiated with their immediate supervisor.

The grievance policy and procedure are as set forth in Appendix A hereto and incorporated by reference.

## **RULE 4- ANNOUNCEMENTS AND EXAMINATIONS**

### **4.01 Job Announcements**

- A. All court departments will use the Human Resources Department and its guidelines to announce a position recruitment.
- B. The same information required for public job announcements will be required for internal promotion examinations. The announcements will be distributed to court departments and County departments and all reasonable efforts will be made to communicate with court and County employees concerning promotional opportunities. Promotional job announcements may limit the recruitment to employees of the Superior Court, or within a court department, or countywide.
- C. Job announcements for judicial officers including judges pro tempore and commissioners, will comply with the Administrative Orders of the Arizona Supreme Court and Superior Court in Yuma County.

### **4.02 Applications**

#### **A. Official Forms**

All applications for positions in a court department will be on application forms approved by the Judicial Management Team.

#### **B. Filing Applications**

- 1. Applications for open competitive examinations must be filed on or before the final closing date specified in the announcement. Applications for open continuous examinations may be accepted at any time and examinations held as the Appointing Authority deems necessary for staffing within court departments.
- 2. The Appointing Authority may require applicants to furnish character references, evidence of education, proof of insurance, physical condition or other qualifications as may be deemed necessary according to the job requirements. Such evidence will be furnished by the applicants at their own expense.
- 3. Applicants will be required to furnish evidence of proof of citizenship or authority to work in the United States and evidence of identity pursuant to the Immigration Reform Act of 1986.

#### **C. Qualifications**

Applications for open competitive examinations will be open to all who meet the minimum age requirement of the applicable Arizona Revised Statutes, the qualifications and standards provided in the official class specifications and job

announcements and provisions of these Rules. All applicants must possess necessary qualifications to perform successfully the essential job tasks of the position. In no case will admittance to the examination process constitute assurance of a passing rating on either qualifications or evaluation of training and experience.

D. Temporary Waiver of Educational Requirements

1. Any applicant who does not meet the minimum educational requirements for the position, but who will meet these requirements as a result of the completion of further scheduled education for the then current school term, may be allowed to take the examination. Successful applicants taking the examination under this provision will have their names entered on the register in the same manner as the other successful applicants, and their names may be certified for appointment. If appointed, they must furnish the Appointing Authority acceptable evidence of their qualifications before the effective date of appointment. Failure to complete the required education will cause the removal of the applicants' names from the Register or the cancellation of their appointments.
2. No other requirement for examination or appointment may be waived without the approval of the Supervising Presiding Judge.

E. Disqualifications of Applicants

The Appointing Authority may refuse to examine applicants, or after examination, may disqualify such applicants or remove their names from the register or refuse to certify applicants on a register, or may consult with the Presiding Judge in taking steps to remove persons already appointed if it is found that applicants:

1. Do not meet any one of the preliminary requirements established for the examination for the class of the position; or
2. Are unfit for performance or unsafe to themselves or other employees or the public in performing the regular duties of the class; or uses drugs, narcotics or alcohol, whether illicit or prescription, to an extent that renders them unfit for performance or unsafe to themselves or other employees or the public, in performing regular duties of the class; or
3. Have made a false statement of material fact in the application or during the interview process; or
4. Have used or attempted to use political pressure or bribery to secure an advantage in the examination or in the appointment to a position in a court department; or
5. Have directly or indirectly obtained information regarding the examination to which, as an applicant, they were not entitled; or
6. Have failed to submit an application correctly or within prescribed time limits; or
7. Have taken part in the compilation, administration, or correction of the examination for which they are applicants; or

8. Have previously been dismissed from a position in a court department for cause; or.
9. Have been convicted of a felony or misdemeanor which involves conduct prejudicial to the administration of justice that brings the courts into disrepute; or
10. Have been convicted of any crime involving the use of narcotics, habit-forming drugs, or paraphernalia; or
11. Are charged with or under indictment for any crime which upon conviction would cause denial of eligibility under this Rule; or
12. Are known to engage in behavior which is in conflict with the law, philosophy or goals of the court, or which would tend to place the individual or the court in a position of compromise, embarrassment, undue criticism, or loss of public credibility; or
13. Who otherwise have willfully violated the provisions of these Rules.

#### **4.03 Nature of Examination**

##### **A Content and Nature of Examinations**

Examinations will be practical in nature and constructed or designed to reveal the traits, abilities and capacity of the applicant for the particular type of work usually assigned to the class of position for which the applicant is being examined. Such examinations may include but are not limited to:

1. Written
2. Oral
3. Demonstration of performance;
4. Evaluation of experience, educational background, and skills;
5. Any other valid method of examination.

##### **B Objectivity of Ratings**

All examinations, evaluations, rating and other selection devices or items will be rated impartially and as objectively as possible.

##### **C. Open Competitive Examinations**

Open competitive examinations for entrance into the classified service will be conducted for applicants who meet the minimum and/or special requirements for examinations.

##### **D. Employee Examinations**

All applicants will be required to meet the qualifications and standards in effect at the time of application. Promotional examinations will be conducted on a competitive basis.

##### **E. Oral Examinations**

When an oral examination is part or all of the examination process, the oral examination will be conducted using a proposed rating made by a panel of two or

more qualified individuals selected by the Appointing Authority. Any member of an oral examinations panel who is related to an applicant being interviewed, or who has any possible conflict of interest with the applicant, will request disqualification as a panel member.

#### **4.04 Evaluating Results and Rating Examinations**

In any examination, the minimum rating or standing through which eligibility on a register may be earned will be determined by the Human Resources Department. Such final rating shall be based upon a weighted average of the various parts of the examination process.

#### **4.05 Reference Checks and Investigations**

Individual court departments will conduct reference and background checks of an individual applicant's education, work history, and personal background as related to specific job requirements and standards relative to court employment. If the results of these checks and investigations reveal information which would disqualify an individual for court employment or disqualify them from the position for which they are applying, the Appointing Authority may request Human Resources to remove that applicant's name from eligibility.

#### **4.06 Notice of Examination Results**

Applicants will receive written or oral notification of examination results at the conclusion of the examination process unless otherwise specified in the job announcement.

#### **4.07 Administrative Review**

The Appointing Authority will provide an administrative review of an applicant's training, experience, and/or oral board score or rating or disqualification, if any, upon written request from the applicant stating the reasons therefore. Such requests must be received within fifteen (15) calendar days from the applicant's notification of examination results.

#### **4.08 Examination Records**

Appointing authorities are responsible for maintenance of all records pertinent to selection and examination programs. Applications and other records will be kept during the life of the register as long as may be required by law.

## **RULE 5 - REGISTERS**

### **5.01 Responsibility for Maintenance of Registers**

It is the responsibility of each Appointing Authority to notify the Human Resources Department as far in advance as possible of vacancies or anticipated vacancies and to cooperate in manpower forecasting and planning and turnover analysis studies. The Human Resources Department will be responsible for the establishment and maintenance of appropriate registers for all the classes and for the determination of the adequacy of existing registers.

### **5.02 Open Competitive Registers**

After each examination, the Human Resources Department will prepare a register or merge the names of the new applicants with those on the existing register. In the case of open and continuous recruitment, registers will be amended continuously. The names of applicants will be placed continuously on registers in the order of their final composite scores in the examination. The open competitive register will include candidates eligible for reinstatement as described in Rule 7.03.

### **5.03 Use of Related Registers**

If a vacancy exists in a class for which there is no appropriate register, the Human Resources Department may prepare a certification for the class from one or more existing related Registers. The Human Resources Department will select names of applicants from registers for which requirements are comparable with and equal to or higher than those required for the class in which the vacancy exists. The Appointing Authority may make an appointment from the certification of names from the related register to the requested classification in which the vacancy exists.

### **5.04 Duration of Registers**

- A. A register will expire at the end of six (6) months from the time of its establishment unless the register is specifically extended at the request of an Appointing Authority for a period not to exceed six (6) months. The Human Resources Department may abolish a register at any time in the event of a new examination, changes in class, duty or requirements, or whenever an existing register has ceased to meet the needs for adequate placement in a court department.
- B. Names of applicants will be removed from open continuous registers after six (6) months from the date they were placed on the register unless the register is extended.



#### **5.05 Removal of Names from the Register**

- A. The Human Resources Department may remove the name of an applicant from a register at any time for any one of the following reasons:
  - 1. Any of the reasons specified in rule 4.02(E).
  - 2. Failure of the applicant to respond to correspondence.
- B. Receipt by the Appointing Authority of any communication from the applicant that the applicant no longer desires to remain on the register for the class or is no longer available for appointment including the following
  - 1. Refusal by the applicant of an offer of probationary Appointment to the court service.
  - 2. Rejection of the applicant by the only department utilizing the classification or, if utilized by more than one (1) department, rejection by three (3) different departments.
  - 3. Expiration of the six (6) month eligibility in the register, unless the register is extended.
  - 4. Failure of the applicant to appear for a scheduled appointment interview.
  - 5. Separation of an applicant from court service as a unclassified, probationary or regular status employee.

#### **5.06 Notification of Removal**

- A. An applicant will be notified verbally, by mail or in any other manner prescribed by the Human Resources Department, when removed from registers for the following reasons:
  - 1. Abolishment of the register.
  - 2. Rejection by the only department utilizing the class, or rejection by three (3) different departments.
- B. An applicant will not be notified when they are removed from registers for the following reasons:
  - 1. Has remained in the register six (6) months.
  - 2. Fails to respond to correspondence.
  - 3. Communicates disinterest or unavailability for appointment to the class for which the register is established.
  - 4. Receives an appointment to a position or assignment a court department or County service.
  - 5. Refuses three (3) interviews or fails to appear for a scheduled interview.

### **5.07 Reduction-in-Force Register**

Employees with regular status who have been separated as a result of a formal reduction in force in accordance with these Rules will be entitled within six (6) months from the date of separation, upon written request, to have their names placed on the reduction in force register for the same or lower grade class for which they are qualified. Their names will remain on such reduction in force register for a period of six (6) months from the date of separation. Former employees may be ranked by the Human Resources Department on a reduction in force register on the basis of the following criteria: their qualifications, length of service, test scores, conduct, performance appraisals, and other related factors.

### **5.08 Employee Registers**

Applicants who are current court (or County) employees may be eligible for the employee register if:

1. They are not on initial probation, and
2. Meet necessary minimum and/or special requirements, and
3. Have passed the testing requirements in effect.

Such employees may be placed on the employee register in order of their respective relative ratings. The employee register will include promotions, transfers, demotions, class changes, changes of appointment from a temporary or on-call to a position in the classified service, or from a grant funded position to a position not funded by grant monies.

### **5.09 Use of Registers**

The Human Resources Department may determine the order in which registers will be used to fill vacancies. Normally, registers will be used in the following order:

- A. First, all former regular status employees in the same class or higher, in classified positions affected by a reduction in force.
- B. Second, employees listed on a current register, but only if the employee's score falls within ten points of the top candidate on the open and competitive register for the same class.
- C. Third, candidates from the open competitive register in the order of their final score.

## **RULE 6 - CERTIFICATION AND SELECTION OF CANDIDATES**

### **6.01 Request for Certification of Candidates**

Appointing Authorities will request certification of candidates in order to fill vacant classified positions by submitting an official request to the Human Resources Department on the form and in the manner prescribed by the Human Resources Department.

### **6.02 Availability of Candidates**

Eligible candidates will be certified on the basis of their indicated availability for employment consideration. It will be the responsibility of the candidates to notify the Human Resources Department in writing of any change of address or other change affecting availability for employment.

### **6.03 Certification of Candidates**

- A. Upon receipt of a written request from the Appointing Authority, the Human Resources Department will certify to the court department a list of candidates. The list will include not less than five (5), but not more than ten (10) qualified candidates in order of their relative ranking. If the number of qualified candidates for a position is fewer than five (5) candidates, then the number available may be certified.
- B. If more than one (1) position is to be filled in the same class in a court department at the same time, then the number of names certified will be increased by one (1) name for each additional position if such names are available.

### **6.04 Selection of Candidates**

- A. In order to make the best selection, all eligibles certified must be notified in writing of an employment interview by the Appointing Authority unless the eligible can be contacted by phone.
- B. The Appointing Authority will check references and investigate the candidates education, work history, and personal background. If the results of these checks and investigation indicate the falsification of material fact on the application or information provided through oral board or subsequent interviews, the Appointing Authority shall disqualify the candidate.
- C. The Appointing Authority's selection must be from among the candidates certified. The effective date of the appointments cannot be prior to the date certified.

- D. The Appointing Authority will notify the Human Resources Department and the candidates interviewed when a final selection has been made. The Appointing Authority will indicate on the forms prescribed by the Human Resources Department the action taken.

## **RULE 7 - TYPES OF APPOINTMENT**

### **7.01 Appointment to a Vacancy in a Classified Position in Court Service**

Vacant classified positions in a court department may be filled or underfilled by:

- A Current employees through promotion, demotion, reassignment, transfer, or class change.
- B. Former employees by RIF return or reinstatement and other qualified applicants by probationary appointment.

### **7.02 Reduction In Force Return**

A former regular status employee separated because of a reduction in force (RIF) may be re-employed subject to the successful completion of a probationary period in accordance with these Rules.

### **7.03 Reinstatement to Court Service**

Former regular status employees of a court department who resigned in good standing, as evidenced by performance evaluations of satisfactory or above, will be eligible for placement on a competitive register of applicants for the same class or lower from which they resigned. Reinstatement must be requested of the Human Resources Department in writing within one (1) year of separation from court service, or for each vacancy for which the employee wishes to apply.

The employees will be ranked by the Human Resources Department based on their current qualifications, and they must follow the normal application procedures process. The appointment of former employees within one (1) year of the date of separation, as provided for in these Rules, will constitute reinstatement. A reinstated employee is eligible for appointment at a salary up to the salary attained prior to separation, at the sole discretion of the Appointing Authority. Annual leave will be computed as if the reinstated employee is a new employee.

### **7.04 Probationary Appointment**

The appointment to a regular status position through certification in accordance with these Rules constitutes a probationary appointment.

**7.05 Other Appointments**

**A. Temporary**

Temporary appointments will be subject to the prior approval of the supervising Appointing Authority of the respective court department including Superior Court Judges, the Clerk of the Court, and other Appointing Authorities defined at Rule 2.05, and will be made from a register or by certification of minimum requirements in the absence of an adequate register. Such appointment will be for a period of time not to exceed one hundred twenty (120) days.

**B. On-Call**

On-call appointments are to meet situations on an as-needed basis as determined by the Appointing Authority.

## **RULE 8 - PROBATIONARY PERIOD**

### **8.01 Nature, Duration, and Purpose**

- A. There shall be a probationary period for all new, transferred, promoted, or demoted employees who shall be deemed at will employees to the extent permitted by law. During the probationary period a probationary employee may be dismissed from the new position for no reason or for any lawful reason at the sole discretion of the Appointing Authority. No appeal is available to probationary employees. No evaluation shall be required prior to the dismissal. The dismissal of a promoted probationary employee shall be subject to the provision of 8.03 B below.
- B. The probationary period will be twelve (12) months for all classified positions. No probationary extensions will be allowed.
- C. The Court Administrator, in consultation with the Judicial Management Team will review and revise the frequency and format of performance evaluations for all classified employees. At least one (1) evaluation will be required prior to the successful completion of any probationary period.

### **8.02 Probation for New, Transferred or Demoted Employees**

- A. A new, transferred or demoted classified employee will serve the established probationary period and will achieve regular status if this initial probation period is completed.
- B. If a new, transferred or demoted employee is to be dismissed during the probationary period, the employee must be given written notice of the termination by the Appointing Authority prior to the expiration of the established probationary period.
- C. In the event an Appointing Authority fails to take action per 8.02 (B) above, the employee will be considered to have attained regular status.

### **8.03 Promotional Probation**

- A. An employee who is promoted will serve a promotional probation period of twelve (12) months in the new position.
- B. A promoted employee who fails to complete the promotional probationary period may revert to a position in the class previously occupied in the Appointing Authority's Department. If there is no such vacancy in a position of the former class, the employee shall be terminated, however the employee may apply for any vacant court position for which the employee is qualified.

## **RULE 9 - PROMOTIONS, TRANSFERS, DEMOTIONS**

### **9.01 Purpose**

All promotions and transfers in court departments will be filled by competitive examination.

### **9.02 Promotions**

- A. Promotions are based upon merit and will be made in accordance with the procedures established by these Rules.
- B. An employee who is promoted will be required to serve a probationary period as provided by these Rules.

### **9.03 Transfer**

- A. Notwithstanding Rule 10.02 (C), an employee may apply for a transfer from one court department to a position in another court department provided that the employee has completed initial probation. Accrued leave balances will be transferred with the employee, but unused compensatory time will be paid to the employee by the transferring department at the time of the transfer.
- B. If the Presiding Judge determines that part or all of the functions of one court department are to be transferred to another court department, the affected employees of the transferring court department will be accepted as transfers by the receiving court department at the same pay rate unless the receiving court department has no need for the particular position or positions. In the latter event, the rule concerning reduction in force will apply.

### **9.04 Reassignment**

Employees may be reassigned from one position to another position in the same class under the same Appointing Authority at any time at the discretion of the Appointing Authority.

### **9.05 Demotion**

- A. Until a promoted employee successfully completes the prescribed probationary period and attains regular status, the employee may be returned or demoted to a former or like position or class, and will have no right to appeal such demotion.
- B. A regular status employee may be demoted for cause as set forth in rule 10.03.



- C. If an employee requests in writing to be assigned to a position of a lower pay grade and/or class, the Appointing Authority may make such a demotion. In such cases, the demotion will be deemed to have been made on a voluntary basis and there will be no right to appeal. The salary of a regular status employee who is voluntarily demoted will be determined pursuant to the Yuma County Superior Court compensation policy. Written requests for a voluntary demotion must be kept in the employee's personnel file maintained by the Appointing Authority.
- D. When an employee is to be demoted, the employee will be required to meet the minimum qualifications and testing standards in effect at the time of demotion for the position to which the employee is being demoted.

## **RULE 10 - SEPARATION AND DISCIPLINARY ACTIONS**

### **10.01 General Provisions**

Except as otherwise provided in these Rules, the tenure of an employee with regular status will continue with satisfactory behavior and the performance of duties.

### **10.02 Reduction In Force (RIF)**

- A. An Appointing Authority may lay off (RIF) an employee in the court service whenever it is necessary by reason of shortage of funds or work, or by reason of a bona fide abolishment of or change in the duties of a position, or when the court department is reorganized and the need for the position is eliminated.
- B. When a reduction in force (RIF) is deemed necessary, the Appointing Authority may limit the RIF to a functional or organizational unit, or classification, in order to maintain work production an essential services.
- C. The Appointing Authority will notify the Court Administrator who will establish, in consultation with the Appointing Authority, the order of preference of RIF for as many employees as are to be separated. In any event, the Appointing Authority will transfer all affected employees in other positions, if possible; the Court Administrator will attempt to place the remaining employees, if any, in other vacancies in the court service.
- D. No employee with regular status is to be separated by RIF while there are temporary, on-call, or probationary employees serving in the court department in the same, equal or lower level positions for which such regular status employee or employees are qualified and available for reassignment or transfer.
- E. In determining the order of RIF employees with regular status, the Court Administrator and the Appointing Authority will consider on a consistent and equitable basis such factors as qualifications, performance, appraisals, work record, conduct and seniority.
- F. The same Rules and procedures will apply to regular status employees in positions funded by a grant or separate funding source, but limited to the grant or separate funding source, unless the employees were not apprized in writing of the funding status at the time of placement in the position, in which case Employees will be ranked together with other employees to determine the order of RIF.

### **10.03 Disciplinary Procedure**

- A. The Appointing Authority may reprimand, suspend, demote or terminate an employee for any cause as provided by these Rules. Each of the following constitutes cause for discipline of an employee in the court service.
1. Fraud in securing or maintaining an appointment.
  2. Incompetency.
  3. Inefficient job performance.
  4. Abuse of sick leave.
  5. Neglect of duty.
  6. Insubordination.
  7. Dishonesty relating to employment
  8. Absence without leave.
  9. Commission or conviction of a felony
  10. Discourteous treatment of the public or fellow court or County employees.
  11. Improper political activity.
  12. Violation of code of ethics (rule 15)
  13. Violation of the Arizona Code of Conduct for Judicial Employees.
  14. Abuse of authority.
  15. Violation of sexual harassment policy (rule 16)
  16. Misuse of government property.
  17. Possessing, dispensing or being under the influence of a narcotic, marijuana, dangerous drugs or any other drug listed and/or defined in A.R.S. §13-3401, which would affect the employee's suitability for continued employment, except in accordance with medical authorization or the lawful performance of the Employee's regularly assigned duties.
  18. Non-compliance with Commission on Judicial Education & Training ("COJET") standards.
  19. Any other good cause
- B. The Appointing Authority may place an employee on an administrative leave status with pay pending investigation of allegations giving rise to possible disciplinary action. No pay of the employee may be withheld before the effective date of the disciplinary action, if any.
- C. A classified employee may also be placed on administrative leave with pay for cause by a person who has been designated as an acting Appointing Authority because the Appointing Authority is temporarily unavailable. The action will be referred to the Appointing Authority upon return for action pursuant to Rule 10.03.
- D. An employee may be placed on administrative leave with pay by a supervisor if the supervisor believes an employee is in an impaired state rendering the employee unable to perform his or her duties or rendering the employee a danger

to self or others, or for other good cause requiring immediate leave status. The supervisor must file a written report of the leave status and the reasons for it with the Appointing Authority the next working day. The Appointing Authority may implement Rule 10.03 upon receipt of the report.

- E. Before any disciplinary action is taken against a regular status employee, the Appointing Authority will provide the Employee a written notice of charges in sufficient detail to apprise the employee of the specific reasons formal disciplinary action against the employee is pending. The Appointing Authority will include the date and time the employee may meet with the Appointing Authority or designee at a pre-disciplinary hearing at which time the employee may provide, verbally or in writing or both, any explanations, circumstances or reasons why the proposed disciplinary action should not be effected. The written notice of charges will be transmitted to the employee either by personal delivery or by certified mail to the employee's last known address according to the records of the Human Resources Department.
- F. Following the pre-disciplinary hearing, the Appointing Authority will determine whether formal disciplinary action is to be taken. If the Appointing Authority takes disciplinary action, the Appointing Authority will give the regular status employee a written notice indicating the action to be taken, the specific reasons for taking the action and the effective date of the action. The written notice will disclose evidence supporting termination, where applicable, including the names and nature of the testimony of adverse witnesses and a written statement of the fact finder as to the evidence relied upon and the reasons for the determination made. The written notice will be either hand delivered to the regular status employee or transmitted by certified mail to the regular status employee's last known address according to records of Human Resources. Copies of the written notice of disciplinary action will be delivered to the Court Administrator and Presiding Judge.
- G. The Appointing Authority will include in the written notice a statement of a regular status employee's right to appeal in writing to the Presiding Judge within ten (10) calendar days of the employee's receipt of the Appointing Authority's written notice. An employee will lose their right to appeal if the appeal notice is not filed within the prescribed time frame.

#### **10.04 Resignations**

An employee who desires to terminate employment with any court department is expected to submit a written resignation to the Appointing Authority at least two (2) weeks prior to the effective date of resignation. An employee who submits a resignation may not retract the resignation unless the Appointing Authority finds that a retraction is in the best interest of the court department.

#### **10.05 Retirement**

An employee with regular status who is retired under the state retirement plan (or system) is deemed separated without prejudice and does not have the right to appeal.

## **RULE 11 - APPEALS**

### **11.01 Matters That May Be Appealed**

- A. Employees in classified positions who have attained regular status may appeal in writing within ten (10) calendar days of receipt of a written notice from the Appointing Authority for demotion, suspension or termination. The filing of an appeal will not stay any disciplinary action taken by the Appointing Authority.
- B. Within ten (10) calendar days of receipt of a written notice of separation from employment by the Appointing Authority, an employee who is separated from any court department through a reduction in force (RIF) may request a review of the circumstances by the Presiding Judge. Based on the finding of this review, the Presiding Judge may determine to treat the separation as a dismissal and grant the employee an appeal.
- C. An employee may appeal an action taken by an Appointing Authority on a grievance if the employee alleges the action violates Rule 3.09.

### **11.02 Matters Which May Not Be Appealed**

A probationary status employee has no right of appeal from any disciplinary action taken by an Appointing Authority.

### **11.03 Appeal Procedure**

- A. All appeals must be in writing and filed with the Presiding Judge within ten (10) calendar days of receipt of a written notice of the disciplinary action taken. The appeal will be considered filed when received in the office of the Presiding Judge. A copy of the appeal will be delivered to the Appointing Authority within three (3) working days of receipt of a statement of appeal.
- B. The written statement of appeal will:
  - 1. State the reason for the appeal.
  - 2. State in sufficient detail the necessary facts upon which the appeal is based and the action requested of the Presiding Judge.
  - 3. Identify all people and agencies involved.
  - 4. Provide a return address.

#### **11.04 Answer**

No answer to the statement of appeal need be filed by the Appointing Authority, but any answer must be in writing and filed with the Presiding Judge and served on the employee within five (5) calendar days after the Appointing Authority's receipt of the appeal statement, but any answer if filed, must be in writing and filed with the Presiding Judge.

A response need not be made by the employee, but any response must be in writing and filed with the Presiding Judge within five (5) calendar days after service of the answer on the employee. A copy of any employee's response will be promptly delivered by the Presiding Judge.

#### **11.05 Time of Hearing**

Every appeal hearing will commence within twenty (20) working days from the receipt of an appeal by the Presiding Judge unless the time is extended by mutual consent of the employee and the Appointing Authority.

#### **11.06 Notice of Hearing**

Written notice of the time, date and place of hearing of an appeal will be served by the Presiding Judge on the employee and the Appointing Authority at least seven (7) calendar days before the date of such hearing.

#### **11.07 Nature of Hearing**

Appeal hearings are closed to the public. Parties may represent themselves or be represented by legal counsel or a non-attorney representation of their choosing. Technical rules of evidence will not apply to the proceedings, except that irrelevant, immaterial, incompetent, or unduly repetitious evidence or evidence protected by the rules of privilege recognized by law may be excluded. All testimony will be recorded manually or by recording device.

#### **11.08 Exclusion of Witnesses**

Upon motion of any employee or Appointing Authority, the Presiding Judge may exclude from the hearing room any witnesses not at the time under examination. Parties to the proceedings, or their attorneys, or other people conducting the case, will not be excluded.

#### **11.09 Witness Fees**

Witnesses, other than employees, when subpoenaed to attend a hearing are entitled to the same fee as is allowed witnesses in civil cases in courts of record. If a witness is subpoenaed upon request of the employee or Appointing Authority, fees and mileage will be paid by the party requesting the witness. Fees and mileage will be paid upon presentation of a duly executed claim in a manner provided for by the Court Administrator. Reimbursement to employees subpoenaed as witnesses will be limited to payment of mileage by the party making the request.

#### **11.10 Depositions**

If a witness does not reside within the county or within one hundred (100) miles of the place where the hearing is being held, is out of the state or is too infirm to attend the hearing, parties thereto at their own expense may cause a deposition to be taken. If the presence of a witness cannot be procured at the time of the hearing, the deposition may be used in evidence by either party or the Presiding Judge.

#### **11.11 Proposed Finding of Facts**

Both employee and Appointing Authority will have the right to file proposed findings of fact within ten (10) working days following the conclusion of the hearing. In the event such proposed findings of the fact are filed by either or both parties, the written findings of fact of the Presiding Judge will include a ruling upon each such finding proposed by the employee and the Appointing Authority.

#### **11.12 Findings of Fact, Conclusion of Law and Order**

At the conclusion of the appeal hearing, the Presiding Judge, or the Presiding Juvenile Judge, may make a verbal finding, effective immediately. However, any findings of fact, conclusions of law, and decisions must be in writing and a copy served by certified mail to the employee and the Appointing Authority at the addresses given at the hearing or to a representative designated to receive same, or hand delivered in person to both parties within fifteen (15) calendar days of the conclusion of the hearing.

#### **11.13 Withdrawal of an Appeal**

The employee may submit a written requests to withdraw an appeal at any time prior to the decision of the judge. The employee will submit copies of the request to the Presiding Judge and the appropriate Appointing Authority.



#### **11.14 Decision by Presiding Judge**

- A. If, after the hearing, and upon review of the proposed findings of fact and conclusions of law filed by either the employee, Appointing Authority or both, the Presiding Judge determines that the action appealed from was arbitrary or taken without reasonable cause, the appeal will be sustained; otherwise the appeal will be dismissed.
- B. The Presiding Judge has full authority to direct remedial action and will do so after taking into consideration just and equitable relief to the covered employee in the best interest of the judicial branch and the public.

#### **11.15 Compliance of Appointing Authority**

- A. In the event the Presiding Judge orders the Appointing Authority to reinstate an employee, the Presiding Judge may also order the Appointing Authority to reinstate an employee with or without back pay for such period and in such amounts as the Presiding Judge deems proper under the circumstances.
- B. The findings and decision of the Presiding Judge is final and the Appointing Authority must immediately comply with such decision. Upon a decision by the Presiding Judge sustaining an appeal, the Appointing Authority of the employee will take such measures as are necessary to comply with the remedial action directed by the Presiding Judge and will render a report of such actions to the Presiding Judge within fourteen (14) calendar days of the decision.

#### **11.16 Settlements**

All settlement agreements will be submitted to the court in writing for approval by the Presiding Judge

## **RULE 12 - CLASSIFICATION PLAN**

### **12.01 Nature:**

- A. The classification plan, as approved by the Presiding Judge, will include each class of positions an appropriate title and a class specifications.
- B. From time to time as necessary, the Presiding Judge may establish new classes and divide, combine, alter, abolish or re-classify existing classes or positions based upon the recommendation of the Judicial Management Team.
- C. Any court employee affected by a change in classification specification may file a written request for a review by the Judicial Management Team.

### **12.02 Interpretation of Class Specifications**

- A. Nature and interpretation of class specifications: class specifications (job descriptions) are descriptive and explanatory; and are not restrictive. They are designed to indicate the kinds of positions which should be allocated to the several classes as determined by their duties or responsibilities. The language of class specifications is not intended to be inclusive or restrictive and is not to be construed as limiting or modifying the authority which agencies have to take from, add to, eliminate entirely, or otherwise change duties and responsibilities, assign duties, or delegate responsibility to employees or direct and control their work. Material and permanent or indefinite changes in the duties and responsibilities of a position must be reported to the Judicial Management Team.
- B. Minimum qualification are comprehensive statements of the minimum requirements as to education, experience and other qualifications which will be required in all cases to meet statutory requirements or to determine an appointee's ability to perform the work properly.
  - 1. To the extent permitted by law when minimum qualifications are increased, the educational requirements will not disqualify incumbents of a class series. All subsequent applicants of the class must qualify under the changed minimum requirements.
  - 2. Although not expressed in the class specification, all people applying for or holding any position in the classified service will be required to meet the following general qualifications: integrity, honesty, sobriety, dependability, industry, thoroughness, accuracy, good judgement, initiative, resourcefulness, courtesy, ability to work cooperatively with others, willingness and ability to assume and fulfill duties and responsibilities of employment.
  - 3. Where the position requires the driving of a motor vehicle, the applicant or

employee must have a valid Arizona operator's license, minimum liability insurance per state law, and is expected to drive the motor vehicle safely.

4. The foregoing general qualifications will be deemed to be part of the minimum qualifications of each class specifications, and need not be specifically set forth herein.

## **RULE 13 - PAY PLAN**

### **13.01 Purpose**

The pay plan provides salaries that are consistent within a class of positions and that are fair and equitable considering the functions required by the specifications for a class. Each class will be assigned a grade, and the salary range for that pay grade. Pay grades, ranges and steps will be established for the various classes in the classification plan to ensure equal pay for equal work. Pay and compensation matters will be administered in accordance with the Judicial Compensation Policy and Procedure. The current Judicial Compensation Policy and Procedure with attached compensation schedule, effective on the date of adoption of these Rules is attached as Appendix B. The Judicial Compensation Policy and Procedure and compensation schedule applies to all employees; probationary, classified, unclassified, temporary, full or part time.

### **13.02 Resolution of Compensation Issues**

The Presiding Judge is the final authority for resolution of compensation issues within the judicial branch. The Judicial Management Team will advise the Presiding Judge and make recommendations for periodic changes or adjustments of the pay plan due to factors such as comparable pay for similar positions within the county or state, the county's financial resources, the labor market and other relevant factors.

## **RULE 14 - LEAVE PLAN**

### **14.01 Purpose**

Matters related to attendance, holidays, sick and annual leave are administered in accordance with these Rules. Provisions of Rule 14 regarding leave apply to all employees including probationary, classified, unclassified, temporary, full or part-time as applicable

### **14.02 Authority**

The Presiding Judge is the final authority for resolution of leave issues pursuant to these Rules. The Presiding Judge may change or amend the leave policy as necessary upon recommendation of the Judicial Management Team.

### **14.03 Basic Work Week and Hours of Work**

Except as otherwise provided in the Rules, each full-time employee is required to regularly work forty (40) hours a week, except for weeks with established holidays or when using approved sick or vacation time. A part-time employee shall work the hours required of that employee pursuant to an approved work schedule.

Each employee is expected to report time away from work according to the policies and procedures of the court for leave record keeping. Modifications of this provision may be made by the Presiding Judge and in the case of the Clerk's Office, the Clerk of the Court, subject to any federal or state statutory or constitutional limitation relating to hours of work.

### **14.04 Holidays**

There are ten (10) paid holidays per year. Employees must be in a pay status for the full regularly scheduled workday both before and after the holiday to be eligible to receive holiday pay. Employees using paid sick leave or vacation time are in a pay status. The maximum number of paid holiday hours is eight (8).

- A. Employees (except on-call and temporary) will be allowed time off with pay for any holiday provided in A.R.S. § 1-301 (except those enumerated in paragraphs 1, 5, 7, 9, and 11 of subsection A) unless required by a court department to work in order to maintain essential court services.
- B. Employees who ordinarily work forty (40) hours per week and who are required to work on a legal holiday regardless of the day of the week on which such legal holiday falls, will be compensated as provided in A.R.S. § 38-608 for such

holiday worked by either:

1. Commensurate compensatory time off with pay; or
  2. Additional commensurate compensation or wages.
- C. Employees working forty (40) hours per week who are working an alternative schedule, will receive eight (8) hours pay for the observed holiday. Subject to the approval of their Appointing Authority, employees will adjust their work schedules to meet their forty (40) hours during the same work week, use vacation time, or take time off without pay to make up the difference between the eight (8) hours of pay for the holiday and their regularly scheduled hours.
- D. Regular status part-time employees working less than forty (40) hours per week, but more than twenty (20) per week, will be compensated as in A & B, above. Holiday pay will be pro-rata basis of their regularly scheduled hours.

#### **14.05 Coverage And Administration of Leave**

##### **A. Coverage and Exclusions**

Employees occupying regular status positions who are scheduled to work at least 50% full time are eligible to accrue leave with pay under these Rules from the date of appointment. The following types of employees are excluded from the leave provisions and are not eligible to accrue or to be given any type of leave with pay:

1. Seasonal appointments
2. Temporary appointments
3. On-call appointments

##### **B. Eligibility For Leave**

1. All employees are eligible for annual leave with pay on accrual of such leave.
2. Any employee who works less than twenty (20) hours per week is not eligible for annual or sick leave.

##### **C. Conversion of Leave**

1. Any accumulation of annual leave in excess of two hundred forty (240) hours at the end of December will be forfeited unless otherwise approved by the Appointing Authority and the Presiding Judge.
2. Unused sick leave credits will accrue without limitation.

D. Reporting and Recording Leave

Each court department will maintain a leave records showing earned, used and unused leave for each category of leave for each of its employees. The forms and manner of maintaining such records will be in accordance with Human Resources policy and procedure. Such records will be subject to review and audit by the Appointing Authority and Human Resources for compliance with these Rules.

E. Leave Requests

1. Leave will be requested and approved in advance of the time when it is taken. Court departments will establish requirements to cover requests for leave in emergency situations when advance approval cannot be obtained.
2. Any leave which has not been earned will not be approved for payment.

F. Disposition of Accrued Leave Upon Transfer

All employees, except for judges' staff, who transfer from one court or county department to another court or county department will retain any accumulated annual, personal, sick and family medial leave. The department from which an employee transfers will certify in writing to the new employing department, the amount of an employee's accumulated leave balances as of the date of transfer. The new employing department will credit the certified amounts to the employee's leave records. Any accrued compensatory time for the employee will not be transferred, but will be paid off to the employee by the department from which the employee was transferred.

G. Disposition of Accrued Leave Upon Separation

Upon separation of an employee who is eligible to use annual leave with pay, all accrued annual leave credit and compensatory time will be paid at the employee's current hourly rate.

**14.06 Annual Leave for Court and Court Department Employees**

Annual leave is a broad category of leave which includes vacation time as well as other periods of approved absence with pay from work which is not chargeable to any other category of leave.

A. Rates of Accrual

1. Regular full-time (40 our work week) employees in complete continuous pay status will accrue annual leave as follows:

<u>Years of Continuous Service</u>	<u>Hours Per month</u>	<u>Days Per Year</u>
0 - 1 (0 through 12 months)	8	12
2 - 4 (13 through 48 months)	10	15
4 - 10 (49 through 120 months)	14	21
10 + (121 or more months)	18	27

2. Regular part-time employees will accrue annual leave time as follows:

<u>Hours Per Pay Period</u> <u>Regularly Scheduled</u>	<u>Percent of Regular</u> <u>Accrual</u>
40 but less than 48	50%
48 but less than 56	60%
56 but less than 64	70%
64 but less than 72	80%
72 but less than 80	90%

3. Annual leave will accrue during any approved leave of absence with pay, but does not accrue during any leave of absence without pay which extends to a full pay period.

B. Annual Accrual

Employees may accrue the maximum hours allowed in one (1) calendar year.

C. Use of Annual Leave

1. Employees eligible to accrue annual leave credits pursuant to these Rules may request and be granted leave according to the needs of the court department and the approval of their supervisor.
2. Annual leave will not be charged against an employee's accrued balance for an authorized holiday which occurs while an employee is using annual leave.
3. Employees may voluntarily donate increments of their accrued annual leave pursuant to Yuma County policy.

**14.07 Sick Leave For Classified And Unclassified employees**

A. Description

Sick leave includes any approved period of absence with pay of an Employee under the following conditions:

1. Illness or injury;



2. Medical, maternity, or dental care;
3. Exposure to contagious disease and possible endangering of others by attendance on duty;
4. Illness, required medical care, or injury of a member (or members of the immediate family (including the employee's spouse, mother and father-in-law, parents, siblings, children, grandparents, grandchildren, or person serving In Loco Parentis of either employee or spouse) which requires the presence of the employee for assistance or care

B. Rates of Accrual

1. Regular full-time employees will accrue without limitation eight (8) hours of sick leave each month.
2. Regular status part-time employees assigned to work at least half-time (40 hours per pay period or more) but less than full-time (80 hours per pay period) will accrue (without limitation) sick leave credits for each two (2) week pay period in which they are in a pay status at the following rates:
 

<u>Hours Per Pay Period</u>	<u>Percent of Regular Accrual</u>
40 but less than 48	50%
48 but less than 56	60%
56 but less than 64	70%
64 but less than 72	80%
72 but less than 80	90%
3. Sick leave will accrue during any approved leave of absence with pay, but does not accrue during any leave of absence without pay which extends to a full pay period.

C. Use of Sick Leave

1. Employees eligible to accrue sick leave pursuant to these Rules may use such sick leave they have accrued since the beginning date of their employment.
2. Sick leave will not be charged against an employee's accrued balance for an authorized holiday which occurred while using sick leave.

D. Verification of Need for Sick Leave

The Appointing Authority will approve sick leave for any period of time only after having ascertained that the absence was for an authorized reason. The Appointing Authority may require the employee to submit substantiating evidence, including but not limited to, a certificate from a licensed physician or practitioner. If the Appointing Authority does not consider the evidence adequate, it will disapprove the request for sick leave and charge the time taken to annual leave or leave without pay.

E. Sick Leave Without Pay

1. When accrued sick leave allowances with pay are not sufficient to cover disability, sick leave without pay may be taken by the employee subject to the approval of the Appointing Authority.
2. If the employee requiring sick leave without pay does not submit, upon request, evidence of disability or continuing disability or submits evidence unsatisfactory to the Appointing Authority, the employee's sick leave without pay becomes void and may result in termination of the employee's services.

F. Payment for Unused Sick Leave

Regular status employees are eligible to receive payment for all accrued sick leave upon separation from employment with the courts at the rate of three dollars (\$3.00) per hour of sick leave up to one thousand (1,000) hours of such unused leave. Reimbursement of accrued sick leave is conditioned upon an employee's continuous employment with the courts for five (5) years, and upon the condition that the employee provide the courts with ten (10) working days notice prior to separation from the courts. See Appendix B, Para. IX, "Separation Pay."

G. Family Medical Leave Act

Pursuant to the Family Medical Leave Act ("FMLA") the Appointing Authority is required to provide a maximum of twelve (12) weeks leave upon the employee's request provided however that the employee qualifies under the FMLA. Leave granted pursuant to the FMLA will be granted in writing advising the employee that the leave is granted under FMLA requirements. Questions about the provisions of the FMLA or the notification requirements may be directed to the Court Administrator or the Human Resources Department for assistance.

A summary of the provisions of the FMLA are contained in Rule 17. The full text of the FMLA is available from the Court Administrator's office or Human Resources for review by employees.

**14.08 Annual Leave for Judicial Staff**

Judicial staff including judicial assistants, bailiffs and court reporters appointed by judges are classified employees as defined in the Judicial Merit System and are therefore covered employees for all purposes defined and described in the Judicial Merit System.

Notwithstanding the provisions of 14.05, 14.06 and 14.07, there is no accrued annual leave time for judicial staff. Judicial staff will take their vacation at the same time and on the same days as the judge for whom they work. The amount of annual leave for judicial staff and the schedule for use of such leave will be approved by the Presiding Judge. If a judicial staff employee terminates their employment with the courts, they are not entitled to compensation for any unused annual leave. Notwithstanding the foregoing, a judicial

officer, in their discretion, may allow a member of their staff to substitute a different annual leave day in place of an already scheduled annual leave day.

#### **14.09 Special Leaves of Absence with Pay**

Special leaves of absence with pay from regularly scheduled work will be granted to employees according to the terms and conditions indicated and will not be charged to accrued annual, sick or compensatory leave.

##### **A. Court Business**

Leave with pay for court business requiring an employee to be absent from the court except for established or routine duties, will be granted with prior approval of the Appointing Authority.

##### **B. Conferences and Training**

Leave with pay to attend trade, professional or other meetings which relate directly to official duties will be granted with the approval of the Appointing Authority.

##### **C. Jury Duty**

Leave with pay will be granted to employees who are called to serve on a jury during their working hours. The amount of leave with pay granted to employees who serve on jury duty will be equal to the amount of time normally scheduled for the employee to work on the day of the week on which the jury duty falls. Employees will retain their regular salary plus juror mileage; however jury fee pay, if paid to an employee, will be returned to the court.

##### **D. Voting**

Leave with pay not exceeding two (2) hours may be granted to employees who are qualified to vote on primary and general election days. The Appointing Authority may specify the hours for exercise of voting leave.

##### **E. Bereavement**

A regular status employee may be absent with pay for a period of time not to exceed five (5) consecutive working days (40 working hours) for each occurrence of death of a spouse, brother, sister, parent, step-parent, child, step-child, grandparent, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law or any member of a household domiciled in the employee's residence, or a person serving in loco parentis of either an employee or their spouse.

F. Administrative Leave

Leave with pay will be granted for a period of absence:

1. Authorized by the Presiding Judge in emergency situations such as extreme weather conditions, fire, flood or malfunction of publicly-owned or controlled machinery or equipment;
2. Based upon the declaration by the Yuma County Board of Supervisors or the Governor of the State of Arizona that a state of emergency, disaster or grief exists; or
3. When an Appointing Authority determines that an employee should be removed from the workplace pending an investigation which may result in disciplinary action or termination of employment.

**14.10 Leaves of Absence Without Pay**

A. Educational Leave

Leave without pay may be granted for reasonable periods of time normally not exceeding one (1) year in order to enable employees to attend work-related education and training courses. Education leave without pay may be granted by the Appointing Authority.

B. Personal Leave

Personal leave without pay, not to exceed one (1) year, may be granted at the discretion of the Appointing Authority when such leave is justified in writing by the employee for personal reasons.

C. Return from Leave Without Pay

An employee's right to return from leave without pay to a position in the courts will be conditioned upon the availability of an appropriate position and sufficient appropriation or authorization of funds. All unused accruals in all categories, including, but not limited to annual leave and sick leave, will be reinstated to the benefit of an employee at the time the employee returns to full-time regular status.

D. Failure or Inability to Return from Leave Without Pay

If an employee does to return to work on the first working day following the expiration of the approved leave without pay or any approved extensions, the employee may be separated without prejudice or dismissed for cause, as determined by the Appointing Authority, depending upon the circumstances.

#### **14.11 Military Leave for Active Service**

##### **A. Long Term**

As provided in A.R.S. §38- 298, employees who are inducted, enlisted, or ordered into active service in the Armed Forces of the United States after August 1, 1939, will, upon completion of their service, be restored to positions held by them at the time of induction or of reporting for service, or to a position having similar or other duties which they are qualified to discharge, and of like status and pay, if such employees:

1. Possess a certificate of satisfactory training and service or honorable discharge issued by the proper military or naval authority;
2. Are still qualified to perform the duties of the position;
3. Apply in writing for restoration within ninety (90) days after separation from the Armed Forces;
4. Apply within five (5) years from the date of separation from the courts; and
5. Gave written notice of entrance into military service as the reason for separation from the courts.

##### **B. Short Term**

1. Military leave will include authorized periods of absence of an employee who is a member of the Arizona National Guard or military reserve for active duty, to attend camps, maneuvers, formations, or armory drills or other activities with the Arizona National Guard or military reserve as provided in A.R.S. §§26-168, 26-171 and 38-610.
2. Employees who are members of the national guard or military reserve and who are engaged in field training as provided in A.R.S. §§26-168, 26-171 and 38-610 will be granted Military Leave with pay for a period not to exceed thirty (30) working days in two (2) calendar years.
3. Employees will be granted military leave without pay or may take accrued annual or compensatory leave for absences from a position in the courts for required attendance at activities of the national guard or military reserve. Employees will accrue all other employee benefits to which they are regularly entitled while on such leave, provided that the affected court department is notified by the employee in advance by submission of a request for absence, which request is accompanied by a copy of the employees' military orders.

#### **14.12 Absence Without Leave**

- A. Any unauthorized absence of an employee from duty will be considered an absence without leave and deduction of pay may be made for such absence.
- B. An unauthorized absence will constitute grounds for disciplinary action by the Appointing Authority.
- C. An employee who is absent for three (3) or more consecutive days without authorized leave, is automatically considered to have resigned; except where extenuating circumstances are found to exist. If extenuating circumstances exist, such absence may be covered by leave with or without pay by the Appointing Authority.

#### **14.13 Industrial Leave - Workers' Compensation Benefits**

The industrial leave procedures used by the Human Resources Department of Yuma County are hereby adopted for purposes of payment of Workers' Compensation benefits and for other related issues in accordance with state statutes and Industrial Commission regulations. These procedures set forth the processes for receiving Workers' Compensation benefits.

#### **14.14 Reinstatement of Sick Leave**

An employee who successfully completed initial Probation and has separated from any Court Department in good standing and returns to service within one (1) year of Separation will be entitled to Reinstatement of all accrued sick leave which was forfeited at the time of Separation.

#### **14.15 Overtime Pay and Compensatory Leave**

- A. Fair Labor Standards Act of 1938 (29 U.S.C. 201-219) As Amended  
All terms and conditions of the Fair Labor Standards Act ("FLSA") shall apply to these provisions regarding overtime pay and compensatory leave.
- B. Prior Approval  
All work hours in excess of forty (40) hours per week or in excess of an established work period must be approved in advance in writing by the employee's Appointing Authority. After approval of the excess work hours, employees will be advised that they have the option to accept compensatory time in lieu of overtime compensation, except that employees hired after March 1,

2002 will only receive compensatory time in lieu of overtime cash payment.

C. Non-Exempt Employees

Employees in non-exempt positions, as defined in the FLSA, who work in excess of forty (40) hours per regularly scheduled work week in or in excess of the hours provided for in an established work period, will be compensated by either:

1. Additional pay at the rate of one and one-half times the employee's regular rate for each excess hour worked; or,
2. Compensatory leave at the rate of one and one-half hours for each excess hour worked.

If an employee's compensatory leave balance has reached a maximum of eighty hours (80) the employee must be compensated by overtime pay.

D. Use of Compensatory Time

Employees are permitted to use accrued compensatory time within a reasonable period after requesting such time; provided however that the period of time requested as "comp time" does not unduly disrupt the operations of the courts and court departments.

E. Court Reporters Exception to Overtime Provisions

The overtime provisions of the FLSA shall not apply for purposes of calculating a rate of compensation when court reporters prepare transcripts for the courts or outside employers. The hours a court reporter spends preparing court transcripts after the regular work day are not compensable as overtime hours as long as the employee receives a minimum per-page rate for the extra work. A per-page rate must be at least:

1. The maximum rate established by state law or local ordinance for the jurisdiction;
2. The maximum rate otherwise established by a judicial or administrative officer and in effect on July 1, 1995; or
3. The rate freely negotiated between the employee and administrative officer and in effect on July 1, 1995; or
4. The rate freely negotiated between the employee and the party requesting the transcript, other than the judge who presided over the proceedings.

**RULE 15 - ARIZONA CODE OF JUDICIAL CONDUCT FOR JUDICIAL  
EMPLOYEES**

**15.01 Purpose**

Persons appointed to positions within the Superior Court departments hold a position of public trust. Therefore, court employees are held to a high standard of integrity and conduct, both professionally and personally. As representatives of the court, employees will behave in such a manner to maintain public confidence and to remain above reproach in both appearance as well as fact. Court employees will uphold the constitution, laws, and legal regulations of the United States, the State of Arizona, and all governments therein. Court employees will abide by standards set out in the Arizona Code of Judicial Conduct for Judicial Employees of the State of Arizona, as ordered by the Arizona Supreme Court as may be amended from time to time( Presently contained in Administrative Order 97-41 issued August 20, 1997.)

The Arizona Code of Conduct for Judicial Employees, effective August 20, 1997 is contained in Appendix C hereto and incorporated herein.



## **RULE 16 - SEXUAL HARASSMENT**

### **16.01 POLICY**

It is improper and against the policy of the superior court for any court employee to ask for or receive sexual favors from another employee or prospective employee in return for or as a condition of granting employment, making a promotion, providing job retention, giving a specific job or duty assignment, or any other action relating to court employment. It is also against the policy of the superior court for employees to conduct themselves in a manner which creates "hostile working environment," such as unwelcome sexual advances, requests for sexual favors, display or transmissions of visual forms of harassment such as cartoons or drawings, physical interference with normal work or movement such as blocking or following employees, and verbal harassment such as jokes, slurs, derogatory comments, profanity, and obscenity.

### **16.02 PROCEDURE**

- A. An employee (complainant) who believes they have been sexually harassed should present their complaint promptly in writing or orally verbally to the Appointing Authority of the employee.
- B. The Appointing Authority will meet with the complainant at the earliest practicable time to discuss the complaint thoroughly and objectively. The complainant will be advised by the Appointing Authority that the complaint is to be treated confidentially and should not be discussed with other employees or others due to the sensitivity of the complaint.
- C. The Appointing Authority will document a complaint as specifically as possible, including instances, dates and places of claimed harassment, names of witnesses to the instances, and names of others whom the complainant believes have experienced similar harassment by the respondent. The document will be presented to the complainant for review and approval evidenced by signing the documents.
- D. The Appointing Authority will next meet with the person against whom the complaint is made (responding party) at the earliest practicable time to inform the responding party of the complaint. The responding party will be given copies of the documents presented by the complainant or prepared by the Appointing Authority which the complainant signed.
  - 1. If the responding party chooses to respond, they may do so verbally or in writing. The response will be documented by the Appointing Authority as specifically as possible, and the documents will be presented to the responding party for review and approval evidenced by the responding

- party's signature on the documents.
2. The responding party will be advised by the Appointing Authority that the complaint and the response are to be treated confidentially and should be discussed with others except as the responding party finds necessary to prepare a response.
- E. Copies of any documents of the response should be given to the complainant who may reply in writing to the Appointing Authority within a period stated by that Appointing Authority.
- F. A copy of the written reply will be given to the responding party by the Appointing Authority. The Appointing Authority may interview other people concerning the complaint, which people will be advised that the proceedings are to be treated confidentially and should not be discussed with others.
- G. The Appointing Authority will render a written decision with findings and conclusions, and a copy will be given to the complainant, the responding party, and the Court Administrator, provided however if the Court Administrator has acted in the matter as the Appointing Authority, a copy will be given to the Presiding Judge.
1. If sexual harassment is found, the decision will state the specific remedial action to be taken.
  2. If the responding party is a classified employee with regular status and sexual harassment is found, remedial action which is disciplinary, i.e. dismissal, suspension, or demotion, may not be taken until the procedures stated in rule 10.03 have been completed. Any disciplinary action taken by the Appointing Authority pursuant to rule 10.03 will be subject to the employee's right of appeal pursuant to Rule 11.
  3. To the extent permitted by procedures established under rule 3.19, the decisions may be pursued as a grievance by either party other than a classified employee having the right of appeal under Rule 11.
- H. An employee's complaint of sexual harassment against the employee's Appointing Authority will be presented to the Court Administrator who will then follow the procedures required of the Appointing Authority under this rule.
- I. All documents pertaining to any complaint of sexual harassment will be maintained in a confidential file in the office of the Court Administrator and the Appointing Authority.
- J. Retaliation in any way by a court employee against another court employee for having made a complaint of sexual harassment or having furnished evidence in an investigation of a complaint of sexual harassment is prohibited and may be the subject of disciplinary action against the retaliating employee.

## **RULE 17 - FAMILY AND MEDICAL LEAVE ACT OF 1993 (FMLA)**

### **17.01 Purpose**

The Yuma County Superior Court is a covered employer under the Family and Medical Leave Act of 1993, Public Law 103-3 [H.R.1], February 5, 1992. 107 Stat.6 to 107 Stat. 29. which is incorporated into these rules. FMLA requires covered employers to provide up to 12 weeks of unpaid job-protected leave to “eligible” employees for certain family and medical reasons.

### **17.02 Application**

To the extent not inconsistent with federal law, this rule applies to all employees.

### **17.03 Eligible Employees**

Employees are defined as eligible if they have worked for a covered employer for at least one (1) year, and for 1250 hours over the previous twelve (12) months.

### **17.04 Reasons for Taking Leave**

Unpaid leave must be granted for any of the following reasons:

- A. To care for the employee’s child, after birth, or a placement for adoption or foster care;
- B. To care for the employee’s spouse, son daughter or parent who has a serious health condition;
- C. For a serious health condition that makes the employee unable to perform the employee’s job.

### **17.05 Employee Requirements**

- A. Employees shall be required to use all accrued leave prior to placement in a “leave without pay” status.
- B. Employees may be required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met.
- C. Employees must ordinarily provide thirty (30) days advance notice when the leave

is “foreseeable.”

- D. Medical certification may be required to support a request for leave because of a serious health condition, and may require second or third opinions (at the employer’s expense) and a fitness for duty report to return to work.

#### **17.06 Job Benefits And Protection**

- A. For the duration of FMLA leave, the employee’s health coverage is maintained under any “group health plan.”
- B. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.
- C. The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee’s leave.

#### **17.07 Unlawful Acts by Employers**

FMLA makes it unlawful for any employer to:

- A. Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- B. Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

#### **17.08 Enforcement**

- A. The U.S. Department of Labor is authorized to investigate and resolve complaints of violations.
- B. An eligible employee may bring a civil action against an employer for violations.
- C. FMLA does not affect any federal or state law prohibiting discrimination, or superseded any state or local law or collective bargaining agreement which provides greater family or medical leave rights.
- D. An employee may grieve any violation of the FMLA which directly affects the employee. This right to grieve, however, shall not limit in any manner any right the employee may have under federal or state law to bring a civil action for any violation.

## APPENDIX A

### SUPERIOR COURT IN YUMA COUNTY

#### EMPLOYEE GRIEVANCE POLICY AND PROCEDURE

##### **I. Purpose**

The court is committed to provided the best possible working conditions for its employees. Part of this commitment is encouraging an open and frank atmosphere in which any problem, complaint, suggestion, or question receives a timely response from the court management. If employees disagree with established rules of conduct, policies, or practices, they can express their concern through the grievance procedures. No employees will be penalized, formally or informally, for voicing a complaint with the court in a reasonable, business-like manner, or for using the problem resolution procedure.

##### **II. Policy**

Employee grievances in all court departments will be resolved as informally as possible at the lowest level and without fear of reprisal.

##### **III. Exclusions**

Any and all matters are subject to the Grievance Procedure except:

- A. Disciplinary actions which are subject to the appeal process stated in Rule 11.
- B. Reductions in force (RIF).
- C. Issues which challenge rights of administration, including:
  - 1. The right of a court department or the court to direct its employees.
  - 2. The right of a court department or the court to hire, promote, transfer, assign, and retain employees.
  - 3. The right of a court department or the court to determine the methods, means, and personnel necessary to maintain efficiency in the courts.
  - 4. Matters involving compensation

#### **IV. Confidentiality**

The fact that a grievance has been asserted, any documents concerning it, its review and any response will be treated confidentially by the grieving party, the Appointing Authority, the reviewer and any other participating in the process. Written resolution, responses, and other documents used in the resolution process will be circulated only among the grieving party, the Appointing Authority and any reviewer or any person responsible for taking any action concerning the grievance.

#### **V. Procedure**

A grievance must be presented without unreasonable delay and in no event later than ten (10) calendar days following discovery of an identifiable incident on which it is based or within ten (10) calendar days of discovery of the last identifiable date of a series of incidents on which it is based. A grievance may be withdrawn at any time.

##### **A. Verbal Grievance**

A grievance must first be presented verbally to the immediate supervisor of the grieving party.

1. The grieving party will advise the supervisor of the grievance and suggest a solution.
2. The supervisor will attempt to resolve the grievance within five (5) days of its presentment.
3. If the grieving party is not satisfied with any proposed resolution, the grieving party may then initiate a written grievance.

##### **B. Written Grievance:**

1. The grieving party will complete and sign the form entitled "General Employee Grievance" which will be provided by the department in which the grieving party is employed.
2. Documents in support of the grievance will be attached to the form., including a list of any witnesses.
3. The form and supporting documents will be filed with the Appointing Authority of the grieving party. Neither the form nor supporting documents may be amended or supplemented after filing.
4. Within ten (10) working days of receipt of the form, the Appointing Authority will interview the grieving party and others whom the Appointing Authority determines may have relevant information and issue and deliver to the grieving party a written response. The response of the Appointing Authority is final.

5. If the grievance is against a department head or Appointing Authority other than the Clerk of the Superior Court or a Superior Court Judge, and a discussion does not resolve the problem, a written grievance may be filed with the Presiding Superior Court Judge, on the prescribed form. The response of the Presiding Judge is final.

**GENERAL EMPLOYEE GRIEVANCE  
CONFIDENTIAL**

<b>IDENTIFICATION</b>		
Name:	Job title:	Work telephone:
Supervisor's name:	Supervisor's work telephone	Representative's name:
Pre-Grievance discussion held :	With:	
<b>STATEMENT OF PROBLEM</b>		
Provide a specific complete statement. Grievances may be withdrawn, but not amended. Attached all documentation you wish reviewed to support your position. If necessary, use extra sheets of paper and attach.		
<b>SUGGESTED RESOLUTION</b>		
What do you suggest to resolve the problem?		
Signature of employee filing grievance:	Date submitted:	

<b>IDENTIFICATION</b>		
Name of responding authority:	Job title:	Work telephone:
<b>RESPONSE TO PROBLEM STATEMENT</b>		
Provide a specific, complete statement. Describe your decision, and attach any additional pages and any supporting documentation to explain decision.		
Signature of responding authority:	Date response provided to grieving party:	



## **APPENDIX B**

### **SUPERIOR COURT IN YUMA COUNTY**

#### **JUDICIAL COMPENSATION POLICY AND PROCEDURE**

##### **I. Purpose**

The judicial pay plan provides for compensation schedules for the various job classifications in the classification plan adopted by the courts and court departments effective October 1, 2000 to ensure equal pay for equal work. Pay and compensation matters will be administered in accordance with the Judicial Compensation Policy and Procedure. This policy applies to all employees, including probationary, classified, unclassified, temporary, full or part time as applicable.

##### **II Authority**

The Presiding Judge is the final authority for resolution of compensation issues. The Presiding Judge may change or amend the compensation policy and procedures as necessary. The Judicial Management Team will advise the Presiding Judge and make recommendations for periodic changes or adjustments of the basic pay plan due to factors such as comparable pay for similar positions within the county or state, the county's financial resources, the labor market and other relevant factors.

##### **III. Pay Plan**

The basic pay plan consists of numbered pay grades. Each classification in the classification plan will be assigned to a pay grade and the salary range for that grade will be established by steps within it.

##### **IV. Entrance Salary**

The entry salary for a position is that salary for step one (1) of the grade for the position; however, the Appointing Authority may appoint a new employee at step two (2) or step three (3), if the employee's education and experience justify it. Under unusual circumstances the Appointing Authority may apply in writing to the Presiding Judge for approval of placement of a new employee above step three (3.) No rate exceeding the maximum for the pay grade will be approved.

##### **V. Temporary or On-Call Status Employee Pay Assignment**

The pay rate of a temporary or on-call employee will normally be at the minimum of the pay grade for the assigned job class, whether for a new hire or an

assignment change for a current employee. A rate above the minimum of the pay grade may be recommended at the discretion of the Appointing Authority and must be justified by the background, education or experience of the employee. The Appointing Authority will present such justification to the Presiding Judge who will decide whether the increased rate is appropriate. No rate exceeding the maximum for the pay grade will be approved.

## **VI. Re-entry to Court Service**

Appointments for former regular status court employees may be at the same or lower rate of pay as the pay at the time of separation, at the discretion of the Appointing Authority.

## **VII. Salary Adjustments**

### **A. Promotion**

The pay rate of an employee who is promoted may be increased to a rate not to exceed ten (10%) percent above the employee's current rate of pay, or ten percent (10%) above the entry rate of the pay grade for the new classification. Any increase greater than the above will require the approval of the Presiding Judge. No rate exceeding the maximum for the new grade will be approved.

### **B. Unsatisfactory Promotional Probation Period**

The pay rate of an employee who fails to satisfactorily complete a promotional probationary period and who is returned to the previous classification or another class of the same or lower pay grade, will be reduced to the pay rate received prior to the promotion and then increased by any annual or other rate increase occurring subsequent to the promotion which would have been applicable to the employee. The new rate must be within the pay grade of the new classification.

### **C. Transfer and/or Class Change**

The pay rate of an employee who is reassigned or transferred to a position in the same class, or to another class on the same pay grade, will be at the same pay rate received prior to transfer or class change.

### **D. Demotion**

The salary of non-probationary employees who voluntarily request and agree to a demotion or who are demoted for disciplinary reasons may be reduced as follows:

1. If an employee is returned to a position which they formerly held or a similar position, the employee's salary may be reduced by the same amount as received on the promotion to the position.

2. If an employee is demoted to a position not previously held or to a lower pay grade, the Appointing Authority may reduce the employee's salary by an amount not to exceed ten percent (10%) taking into consideration the number of pay grades between the two (2) classifications and salary equity issues of current Employees in the lower classification.

E. Reclassification and/or Pay Grade Adjustment

When a position is reclassified or the pay grade of a classification is adjusted, the salary of the incumbent in the Position may be adjusted as follows:

1. For a position assigned to a higher pay grade, the employee shall be placed in the same step in the new grade. Any increase greater than that provided herein requires the approval of the Presiding Judge. No salary exceeding the maximum of the higher pay will be approved.
2. For a position assigned to the same pay grade, the salary of the incumbent will remain the same as the employee's current rate.
3. For a position assigned to a lower pay grade, the salary of the incumbent may not exceed the maximum of the lower pay grade.

F. Special Duty Assignment

The pay rate of an employee approved for a special duty assignment due to absence or vacancy of a position with a higher grade classification may be increased by an amount not to exceed ten percent (10%) of the current salary, or the minimum of the higher pay grade, for performing the duties of that position. The assignment must be for a minimum of thirty (30) calendar days but not longer than one (1) year. The new pay rate cannot exceed the maximum of the higher pay grade.

G. Return from Special Duty

The pay rate of an employee who returns from a special duty assignment will be reduced to the same rate received prior the special assignment and then will be increased by any annual or other rate increased which may have been approved during the special duty assignment which would have been applicable to the employee.

H. Performance/Step Increases

1. Nature

The Judicial Merit System incorporates an evaluation system that establishes pay grades for each job class, with incremental step

increases based on performance and longevity. Step increases must be preceded by a performance evaluation, to demonstrate adequate performance of duties and responsibilities. A step increase is not a right of an employee, but is a salary adjustment related to job performance and length of service in a court department. Performance pay will not be granted to employees who do not meet established performance criteria. The Appointing Authority has exclusive authority to approve step increases.

2. Step Increase Eligibility

An employee will become eligible for consideration for a step increase from step one (1) to step two (2) after one (1) year of employment; to step three (3) after the two (2) years of employment; to step four (4) after the third year of employment; and to further step increases every two (2) years thereafter. Step Increases may be withheld for a period not to exceed one hundred eighty (180) days, if an employee's performance evaluation indicates corrective action is needed, and/or a step increase is not meritoriously deserved. Subsequent step increases, if meritoriously appropriate, will be effective from the ending date of the extended period for the withheld Step Increase, and will not be based on the employee's hiring anniversary date.

I. Special Salary Advancement

If special and unusual circumstances, including meritorious performance, warrant, an employee's Appointing Authority may propose a special step increase for a regular status employee by submitting a written justification to the Judicial Management Team. The Judicial Management Team will review the written justification and make a recommendation to the Presiding Judge. A special salary increase not to exceed ten percent (10%) of an employee's salary may be granted once in a twelve month period. Based on the circumstances of the request, a special salary increase may adjust an employee's base rate of pay on a temporary or continuing basis. No adjustment that exceeds the maximum of the employee's pay grade will be approved.

J. Equity Adjustment:

Requests for adjustments to pay for reasons of equity may be presented in writing to the Judicial Management Team. The Judicial Management Team will review the written justification and make a recommendation to the Presiding Judge. Adjustments due to equity considerations include, but are not limited to pay inequities with peers caused by salary freezes, lack of funding for pay increase, and errors or omissions at the time the original pay rate was established.

## **VIII. SEPARATION PAY**

- A. In addition to any wages due at the time employees are separated from employment within the courts, they will be paid at their regular hourly rate all accrued annual leave and accrued compensatory time.
- B. Wages, accrued annual leave and accrued compensatory time will be paid to the heirs, beneficiaries or estate of a deceased employee.
- C. Regular status employees are eligible to receive payment for all accrued sick leave upon separation from employment with the courts or court department at the rate of three dollars (\$3.00) per hour of sick leave up to one thousand (1,000) hours of such unused leave. Reimbursement of accrued sick leave is conditioned upon an employee's continuous employment with the courts or court departments for five (5) years, and upon the condition that the employee provide the courts with ten (10) working days notice prior to separation from the courts. See also, Rule 14.07 F. "Payment of Unused Sick Leave."

**APPENDIX C**

**SUPERIOR COURT IN YUMA COUNTY**

**ARIZONA CODE OF JUDICIAL CONDUCT FOR JUDICIAL EMPLOYEES**

TABLE OF CONTENTS

PREAMBLE	65
DEFINITIONS	66
CANON 1	67
Judicial Employees Shall Uphold the Integrity and Independence of the Judiciary	
CANON 2	68, 69
Judicial Employees Shall Avoid Impropriety and the Appearance of Impropriety in All Their Activities	
CANON 3	70, 71
Judicial Employees Shall Perform Their Duties Impartially And Diligently	
CANON 4	72, 73
Judicial Employees Shall So Conduct Their Outside Activities as to Minimize Conflicts With Their Employment Responsibilities	
CANON 5	74, 75
Judicial Employees Shall Refrain From Inappropriate Political Activities	

## **PREAMBLE**

A fair and independent court system is essential to the administrations of justice. Proper conduct by judicial employees inspires public confidence and trust in the courts. There are certain principles that should govern the conduct of all judicial employees.

This code of conduct provides uniform standards for the conduct of all judicial department officers and employees other than judges. It is intended to complement the Code of Judicial Conduct and governs the conduct of judges and should be interpreted in a manner consistent with that code.

The minimum standards contained in this code do not preclude the adoption of more rigorous standards by law, court order or local rule.

Violations of this code shall be enforced locally and in the same manner as violations of local personnel rules that apply to judicial employees.

## DEFINITIONS

The following terms have specific meanings within the context of this code.

“Canon” is a fundamental principle governing the conduct of judicial employees. The broad statement of principle appearing before each major section of the code is the canon. There are five canons in this code.

“Court managers” are high-level administrative staff who work in such close proximity to judges that their actions, decisions or conduct might be viewed as the official acts or positions of the judiciary. In the trial courts, court managers include court administrators, chief probation officers, juvenile court directors, and any other similar staff designated by the Presiding Judge of each county, except the elected clerks of court. In the appellate courts, court managers include clerks of the court, chief staff attorneys, the administrative director, deputy director, division directors and other staff designated by the chief justice or chief judges.

“Courtroom Clerks” are staff of the elected Clerk of the Court who are assigned to work in the courtroom with the judge.

“Judge” means any person who performs judicial functions within the judicial system as defined in the Code of Judicial Conduct.

“Judicial employee” refers to any person employed in the judicial department of this state, as defined in Article 6 Section 1 of the state Constitution, who directly or indirectly affects the operation of the judiciary.

“Personal staff” means assistants, secretaries, law clerks, bailiffs, and court reporters employed by, assigned regularly to, or reporting directly to a judge.

“Relative” means a spouse, child, grandchild, parent, grandparent or other person with whom the judicial employee maintains a close familial relationship, including any person residing in the employee’s household.



## CANON 1

### JUDICIAL EMPLOYEES SHALL UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY

**A. Independence.** Judicial employees shall maintain high standards of conduct so the independence of the judiciary is preserved.

**B. Integrity:** Judicial employees shall maintain and observe the highest standards of integrity, honesty, and truthfulness in their professional and personal dealings.

*Commentary:*

*The fundamental attitudes and work habits of individual judicial employees reflect on the integrity and independence of the judiciary and are of vital importance in maintaining the confidence of the public in the judiciary. Honesty and truthfulness are paramount.*

## CANON 2

### JUDICIAL EMPLOYEES SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL THEIR ACTIVITIES

**A. Compliance with Law.** Judicial employees shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

*Commentary:*

*As public servants, judicial employees should not act in any way that would violate specific laws or the provisions of this code. Public confidence in the judiciary is maintained by the willingness of each employee to live up to this standard. When faced with conflicting loyalties, judicial employees should seek first to maintain public trust.*

**B. Gifts and Extra Compensation.** Judicial employees shall not solicit or accept gifts or favors from attorneys, litigants, or other persons known to do business with the court and shall not request or accept any payment in addition to their regular compensation for assistance given as part of their official duties.

*Commentary:*

*Examples of improper conduct include seeking a favor or receiving a gift, or the promise of one, whether it be money, services, travel, food, entertainment, or hospitality, that could be viewed as a reward for past or future services. Receiving fees or compensation not provided by law in return for public services may be a class 6 felony or a class 1 misdemeanor under A.R.S. § 38-505 subject to the penalties in A.R.S. § 38-510. It is permissible, however, to accept food and refreshments of insignificant value when attending a conference, seminar, business lunch or meeting, and to accept or exchange gifts and other social hospitality on customary occasions, (e.g., birthdays or weddings) with friends outside the workplace. Employees may also accept awards presented in recognition of public service. The standard to keep in mind here is that employees should always conduct themselves in a manner that inspires public confidence in their role as judicial employees.*

**C. Abuse of Position.** Judicial employees shall not use or attempt to use their positions to secure special privileges or exemptions for themselves or any other person.

*Commentary:*

*Judicial employees should not for example, seek or provide special consideration regarding traffic citations or parking violations; provide special treatment to particular parties or matters; discuss the merits of cases pending before the Court or be inappropriately friendly with litigants, counsel or other persons who do business with the court, and thus give the appearance of*

*preferential treatment. To gauge the propriety of an action, employees should consider how opposing parties and counsel are likely to view the situation. Accepting, agreeing to accept, giving or requesting a gift or favor with an understanding that any court business or proceeding would be influenced may be bribery, a class 4 felony under A.R.S. § 13-2602(A)(2), § 13-2606.*

**D. Employment of Relatives.** Judicial employees shall not be appointed by, or assigned to be directly supervised by, a relative or by a supervisor reporting to a relative. Employees shall not attempt to influence the employment or advancement of a relative by a court except by letters of reference or in response to a person verifying references.

*Commentary:*

*A court manager's employment of relatives may be a class 2 misdemeanor under A.R.S. § 38-481.*

**E. Use of Public Property.** Judicial employees shall not use public funds, property or resources wastefully or for any private purpose not authorized by judicial or other administrative authorities.

*Commentary:*

*Employees should not, for example, knowingly make false entries on time cards or personnel records; backdate a court document; falsely claim reimbursement for mileage or expenses; misuse the telephone, facsimile machine, or copying machine; or take supplies home for private use. This conduct may be theft, a class 1 misdemeanor ranging to a class 3 felony under A.R.S. § 13-1802 or fraud, a class 2 felony under A.R.S. § 13-2310.*

**F. Former Employees.** Judicial employees shall not do business with a former judicial employee:

- who held a position involving substantial discretion over that aspect of the court's activities, and
- who left the court's employment during the preceding 12 months, and
- whose participation could harm the interests of the judiciary or cause a perception of favoritism.

*Commentary:*

*Abuse of former employment may be a class 6 felony under A.R.S. § 38-504(A).*

## CANON 3

### JUDICIAL EMPLOYEES SHALL PERFORM THEIR DUTIES IMPARTIALLY AND DILIGENTLY

**A. Professionalism.** Judicial employees shall be patient, prompt and courteous to litigants, jurors, witnesses, lawyers and others who come in contact with the court.

**B. Impartiality.** Judicial employees shall perform their duties impartially, and shall not be influenced by kinship, social or economic status, political interests, public opinion or fear of criticism or reprisal.

*Commentary:*

*Employees who think they may be influenced in a particular matter should discuss the situation with a supervisor, administrator or judge.*

**C. Prejudice.** Judicial employees shall perform their duties without bias or prejudice, and shall not manifest by words or conduct bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status.

**D. Information and Records.** Judicial employees, when authorized, shall furnish accurate, timely information and shall provide access to public court proceedings and records according to established procedures. A judicial employee shall not disclose any confidential information received in the course of official duties, except as required in the performance of such duties, or use such information for personal gain or advantage.

*Commentary:*

*Some information received by judicial employees while performing their duties is confidential and should not be revealed. Sometimes confidential matters are revealed through innocent and casual remarks about pending or closed cases, about participants in litigation, or about juries, any of which could give attorneys; litigants and reporters an unfair advantage. Such remarks can seriously prejudice a case or harm a person's standing in the community. Abuse of confidential information by a current or former employee may be a class 6 felony under A.R.S. § 38-504B.*

**E. Legal Assistance.** Judicial employees may assist citizens in identifying available procedural options and in understanding and complying with court procedures. Judicial employees shall not advise a particular course of action.

*Commentary:*

*Employees may assist citizens, consistent with the court's resources, with matters within the*

*scope of their responsibilities and knowledge. This assistance may include providing information contained in court records; furnishing examples of forms or pleadings; explaining court rules, procedures, practices, and due dates; and helping to complete forms with factual information provided by a citizen. Although a person may be informed of the options for addressing a matter, judicial employees should not advise citizens whether to take a particular course of action or attempt to answer questions outside their knowledge and experience. In performing their official duties, employees should not recommend the names of private attorneys to the public unless the employee works in a court-approved lawyer-referral program, but may refer members of the public to bar associations or legal aid organizations.*

**F. Education.** Judicial employees shall comply with judicial education requirements and maintain any licensing or certification required for their positions.

**G. Communication with Judges.** Judicial employees shall not communicate personal knowledge about the facts of a pending case to the judge assigned to the case and shall not make or repeat remarks about a case pending before an Arizona court that might affect the fairness or outcome of the proceeding.

**H. Duty to Report.** Judicial employees shall report to a supervisor, administrator, or judge within the judicial department any violation of the law or this code by another judicial employee. Employees shall not be subject to retaliation for reporting violations if such report is made in good faith.

*Commentary:*

*This obligation does not prohibit reporting illegal conduct to a law enforcement agency or other appropriate authority. In addition, employees should cooperate with the Commission on Judicial Conduct and may communicate with the Commission at any time, without fear of reprisal, for the purpose of discussing potential or actual judicial misconduct.*

## CANON 4

### JUDICIAL EMPLOYEES SHALL SO CONDUCT THEIR OUTSIDE ACTIVITIES AS TO MINIMIZE CONFLICTS WITH THEIR EMPLOYMENT RESPONSIBILITIES

**A. General Activities.** Judicial employees shall conduct their outside activities so as to avoid a negative effect on the court or their ability to perform their duties.

**B. Financial Activities.** This section does not apply to court reporters appointed pursuant to A.R.S. § 12-221 when preparing transcripts pursuant to A.R.S. § 12-223 and 12-224. Except as provided by law court rule, judicial employees shall not engage in any business activity or secondary employment that:

- (1) Involves an organization or a private employer that regularly conducts business with the court;
- (2) Is conducted during the employee's normal working hours;
- (3) Places the employee in a position of conflict with his or her official role in the judicial department;
- (4) Requires the employee to appear regularly in judicial or administrative agency proceedings;
- (5) Identifies the employee with the judicial department or gives an impression the employment or activity is on behalf of the judicial department; or
- (6) Requires use of court equipment, materials, supplies, telephone services, office space, computer time, or facilities.

*Commentary:*

*In order to avoid any employment that is in conflict with a judicial employee's official role within the judiciary, a judicial employee should not, for example, work for a police department, public defender, or prosecutor. Judicial employees may become foster parents, and may teach, lecture, or write on any subject, so long as any payment is at the prevailing rate, any presentation or document clarifies that the judicial employee is not representing the judicial department, and confidential documents and information are not disclosed.*

**C. Conflict of Interest.** Judicial employees shall manage personal and business matters so as to avoid situations that may lead to conflict, or the appearance of conflict, in the performance of their employment.

(1) Judicial employees shall inform the appropriate supervisor of any potential conflict of interest involving their duties.

(2) A member of a judge's personal staff and the courtroom clerk shall inform the judge of any potential conflict of interest, involvement or activity of the staff member or courtroom clerk in a case pending before the judge.

(3) Judicial employees shall withdraw from participation in a court proceeding or court business in which they have a personal, business, or family interest that may actually or appear to influence the outcome of the court proceeding or business.

*Commentary:*

*Every judicial employee has a legal obligation under A.R.S. § 38-501 et. seq. To diligently identify, disclose and avoid conflicts of interest. A potential conflict of interest exists when an official action or decision in which a judicial employee participates may specially benefit or harm a personal, business or employment interest of the judicial employee, the judicial employee's relative or the judicial employee's close friends. In a judicial proceeding, a potential conflict of interest arises if a judicial employee's business associate, relative or close friend is an interested party. Even if no impropriety actually occurs, a conflict of interest creates an appearance of impropriety that can seriously undermine the public's confidence and trust in the court system.*

*If withdrawal from a matter would cause unnecessary hardship, the judge or court manager may authorize the judicial employee to participate in the matter if permitted by the Code of Judicial Conduct, no reasonable alternative exists, and safeguards, including full disclosure to the parties involved, ensure official duties are properly performed.*

**B. Solicitation.** Judicial employees shall not use their positions or offices to solicit funds, but judicial employees, other than members of a judge's personal staff, courtroom clerks, or court manager, may solicit funds in connection with outside activities.

*Commentary:*

*Judicial employees should not personally request subordinates to contribute funds to any organization or activity but may provide information to them about a general fund-raising campaign. A member of a judge's personal staff, the courtroom clerk, or a court manager should not request any judicial employee to contribute funds under circumstances where their close relationship to the judge could reasonably be viewed to give weight to the request.*

## CANON 5

### JUDICIAL EMPLOYEES SHALL REFRAIN FROM INAPPROPRIATE POLITICAL ACTIVITIES

**A. General Activities.** In general, judicial employees may participate in any political activities that do not give the impression the judiciary itself endorses political candidates or supports political causes, except when assigned to do so regarding measures to improve the law, the legal system, or the administration of justice.

*Commentary:*

*The judiciary seeks to maintain neutrality in political matters. While judicial employees may express and act on personal opinions about political candidates and issues as other citizens, they should maintain neutrality in action and appearance when performing their duties on behalf of the judicial department, unless their positions permit political advocacy on the part of the judiciary. To this end, judicial employees should separate their political activities from employment duties.*

**B. Personal Staff.** Courtroom Clerks, and Managers. In addition to the other sections of this canon, members of a judge's personal staff, courtroom clerks, and court managers shall be subject to the same political limitations as judges contained in Canon 5 of the Code of Judicial Conduct, and may not hold any elective office.

**C. Elective Office.** Incumbent elected clerks of the court may be candidates for their offices without taking a leave of absence and are not subject to the provisions of this section. Judicial employees who are not members of a judge's personal staff, courtroom clerks, or court managers may be candidates for elective office under the following conditions:

(1) Partisan. Such judicial employees may be candidates for partisan elective office if the judicial employee is authorized to take an unpaid leave of absence. The leave of absence must begin prior to any public declaration of an intention to seek office, including the filing of campaign papers, and prior to any fund-raising for the judicial employee's campaign. The judicial employee shall publicly disclose that he or she is on a leave of absence from court employment. If elected, the judicial employee shall resign from court employment prior to assuming office.

(2) Non-partisan. Such judicial employees may be candidates for nonpartisan elective office without taking a leave of absence or separating from court employment if:

- A. the judicial employee first seeks permission from the Chief Justice, Chief Judge, Presiding Judge of the Court or Clerk of Court,
- B. that judicial officer or clerk of court determines the office sought is consistent with judicial employment.
- C. the judicial employee otherwise complies with this code.



**D. Workplace Activity.** During scheduled work hours or at the workplace, judicial employees shall not engage in political campaign activities and shall not display literature, badges, stickers, signs, or other political advertisements on behalf of any party, political committee, agency, or candidate for political office. Judicial employees authorized to do so may participate in approved activities regarding measures to improve the law, the legal system, or the administration of justice.

**E Political Pressure.** Judicial employees shall not use their official authority or position, directly or indirectly, to influence or attempt to influence any other judicial employee to become a member of any political organization or to take part in any political activity.

**F. Judicial Campaign Activity.** Judicial employees, including members of a judge's personal staff, courtroom clerks and court managers, may voluntarily participate in a judge's or clerk's campaign activities and may voluntarily contribute funds to a campaign, but only through a judge's or clerk's fund-raising committee. However, judges, elected clerks of the court, and court managers or supervisors shall not require subordinate judicial employees to participate in political activities or personally receive funds from judicial employees for any political purpose.

**G. Political Discrimination.** Judicial employees shall not discriminate in favor of or against any subordinate or any applicant for judicial employment on account of permitted political activities.